

*Instructor Clericalis :*

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*The Second Part.*

---

Being a

**COLLECTION**

Of most Choice and Usual  
**Presidents for Declarations**

Both in the

**QUEEN'S BENCH**

AND

**COMMON PLEAS:**

IN

Actions of Case, Actions upon Statute,  
Covenant, Debt, Detinue, Ejectment,  
Quare Impedit, Replevin, Trespass, Trover  
and Waste, methodically digested into Rule  
and President :

For the further Instruction of  
**Young CLERKS.**

---

The Third Edition, with many Directions to proper  
Presidents. Also the Judges late Order for Regulating  
Attorneys and Clerks of the several Courts.

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*By the Author of the First Part.*

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**L O N D O N :**

Printed by the Assigns of Richard and Edward Atkins Esqs;  
for **T. Weber**, at the Hand and Star within Temple-  
Bar. MDCCV.

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De Termino Sancti Michaelis.

Anno Regni Dominae Annæ nunc Reginae,  
Angliæ, &c. Tertio.

**W**Hereas divers Complaints have been made to us, that many Attorneys and Clerks of the several Courts at Westminster are not Admitted of any of the Inns of Court or Chancery, according to ancient Course and Usage, by which they might be resorted to, and Business of Law better managed, to the greater Ease of the Queen's Subjects. The Neglect whereof is to the great Detriment and Decay of the Societies of the Law, and divers Inconveniencies do thereupon daily happen. For prevention whereof, and to Establish a Remedy for the future,

**I**T is Ordered by the Judges of the several Courts of Queen's Bench and Common Pleas, and the Barons of the Court of Exchequer at Westminster, That all Attorneys and Clerks of the said Courts, not already Admitted into one of the Inns of Court or Chancery, shall procure themselves to be Admitted into one of the said Inns of Court (if those Honourable Societies shall please to admit them) or into one of the Inns of Chancery, before the end of Trinity Term, now next ensuing, and take Chambers there (if conveniently they may be had) else, that they take Lodgings in some convenient Place near the said Inns, and leave Notice in Writing, with the Butler or Porter of such Inn, whereof they are Admitted, where their Lodgings or Habitations are; (except such Persons who are or shall be hereafter Inhabitants or House-keepers in London, Westminster, Southwark, or the Suburbs thereof, and Liberty of the Tower of London, and St. Katherine's

## Orders for Regulating Attorneys.

*therins* there; and such who are Sworn Attorneys of any Courts within the said Cities, Towns, and Liberties.

And it is further hereby Ordered, That for the future no Person whatsoever shall be Sworn an Attorney, or Admitted, or Entred a Clerk of any of the said Courts or Offices thereunto belonging, (except the Persons before excepted) unless first Admitted of one of the *Inns* aforesaid, and bring and produce at the time of his being Sworn an Attorney, or Admitted, or Entred a Clerk, as aforesaid, a Certificate under the Hand of the Treasurer, or Principal of the *Inn* whereof he is Admitted, which they are respectively to give, without being paid any thing for the same, testifying such his Admission: Which Certificate, every Attorney, or Clerk so Sworn, of the said Court of *Queen's Bench*, shall deliver to the Secondary of the said Court. And every Attorney so Sworn of the said Court of *Common Pleas*, shall deliver to the Clerk of the Warrants of the said Court. And every Attorney so Admitted, or Entred, shall deliver to the respective Prothonotaries of whose Office he shall be Admitted. And every Attorney so Sworn of the said Court of *Exchequer*, or Clerks Seated in any of the Offices belonging to the said Court, shall deliver to the Queen's Remembrancer, or his Deputy for time being, to be by the said respective Officers Filed, before the Name of such Attorney shall be Entred into the Roll of Attorneys, or such Clerk admitted, entred or seated, as aforesaid. Unto which File of Certificates the respective Treasurers and Principals of the said *Inns of Court* and *Chancery*, shall or may from time to time resort, as they shall see Cause, without paying any thing for the same.

And it is further Ordered, That no Attorney already Sworn, or Clerk already Admitted, Entred or Seated, or which hereafter shall be Sworn, Admitted, Entred or Seated, and which are or shall be Admitted into any of the Societies aforesaid, shall put himself out of the Society whereof he is, or shall be Admitted, until he be Admitted of some other of the said Societies, and deliver to the Treasurer or Principal of such Society whereof he was first Member, a Certificate in Writing, Signed by such Treasurer



## Orders for Regulating Attorneys.

Treasurer, or Principal, testifying his being admitted of such other Society, (except such Person shall totally leave off the Practice of the Law as an Attorney, or Clerk in any of the said Courts.)

And whereas by the Usage, Custom, or Orders of the *Inns of Chancery*, the Members thereof were obliged to, and did come into Commons, and continue therein, according to the Orders of such Society, to the great Ease in transacting their Causes one with another, and much Benefit to their Clients. But of late, most, or great Number of the said Attorneys and Clerks, have neglected to come into Commons, or continue therein, according to the respective Orders of the said *Inns of Chancery*, to the great Decay and Detriment of those Societies.

It is further ordered, That from the end of this present Term, the Attorneys and Clerks which now are, or shall be admitted into any of the *Inns of Chancery*, do, and shall come into, and continue in Commons for the time or times, as by the Orders of such Society, whereof they are or shall be admitted, is, are, or shall be Ordered, Limited or Appointed for them so to do: And in case any Attorney or Clerk aforesaid shall offend against this Rule, or any Part thereof, such Attorney shall be put out of the Roll of Attorneys; and such Clerk so offending shall be discharged and displaced from such Office to which he belongs, until he or they give Obedience to this Order: And the Secondary of the said Court of *Queens-Bench*, and the respective Prothonotaries, and Clerk of the Warrants of the Court of *Common-Pleas*, and the *Queens Remembrancer* of her Court of *Exchequer*, or his Depty for the Time being: And all other Officers whom it may concern, are hereby required to give Obedience to this Order, and see that the same (as to themselves) be duly observed.

And for the more effectual and better putting in Execution this Order, and that it may procure the Good hereby designed and intended,

It is hereby further Ordered, That the respective Treasurers, and Principals of the *Inns of Chancery*, and the Antients, Rulers, and Governors of the same,

## Orders for Regulating Attorneys.

same, do, and shall from time to time, by such ways and means as they shall see fit and convenient procure, and get a List of the Names of such Attorneys and Clerks of the said respective Courts who are not admitted of any of the said *Inns of Court* or *Chancery*; which List the said Treasurers and Principals, Antients, Rulers and Governors shall Yearly in *Michaelmas* Term deliver unto the Right Honourable the Lords Chief Justices, and Lord Chief Baron of the said respective Courts for the time being, to the intent the Offenders against this Order may be compelled to give Obedience to the same.

And it is hereby further Ordered, That the said Treasurers, Principals, Antients, Rulers and Governors, in like manner procure, and get a List of the Names of such Persons as take upon them to practise as Attorneys or Clerks, in any of the said Courts, who are neither Sworn Attorneys, or Admitted, Entred or Seated Clerks in any of the Offices of the said Courts; which List is to be delivered as above, to the Intent that such Offenders may be proceeded against in such manner as shall be thought fit.

*J. Holt.*  
*Tho. Trevor.*  
*Edw. Ward.*  
*Ed. Nevill.*  
*John Powell.*  
*Littleton Powys.*

*Jo. Blencowe.*  
*H. Gould.*  
*R. Tracy.*  
*Tho. Bury.*  
*Ro. Price.*  
*J. Smith.*

# INSTRUCTIONS

## FOR

### Young CLERKS.

#### The Second Part.

**I**N the First Part of our Instructions we have treated of these like things, viz.

1. Concerning the Process, as Bill of *Middlesex*, *Latitat*, *Alias*, *Plures*, Directions for Philizers Writs, *Retorna Bre-vium*, &c.

2. The Form of making up Issues, Records, and Process for Trial, &c.

3. The manner of entring up Issues and Judgments on the Roll, and of suing out Writs of Execution after Judgment, &c.

4. And lastly some Presidents of Declarations, &c.

And hereby it appears, That after the first Process we went to the Issue and Judgment, &c. before we came to our Declarations, Yet *Causa Patet*, it was our Young Clerk's



## Of Declarations.

Clerk's principal and common Business, and therefore to him most necessary.

But now we will look into the Lessons of a higher Form, and proceed more orderly and therefore begin with our Declarations and examine them more deliberately.

---

## Of Declarations, &c.

*Declarations, what.*

**A** Declaration is a Complaint or setting forth of his Action, by the Plaintiff or Party grieved, against the Defendant or Party grieving, by whom the Plaintiff supposeth to have received Wrong or Damage. 'Tis properly called a Count in a Real Action; and in a Personal Action rather called a Declaration.

And when. But where a Man cannot legally bring an Action, neither can he there maintain a Declaration.

What Persons can, or cannot maintain a Declaration. And of this sort are Persons attainted of Treason or Felony — So, Outlaw'd and Excommunicated Persons, Persons convicted of *Præmunire*, or professed in Orders of the Papal Religion, as Friars, Monks, &c. These, though they are liable to be sued, cannot bring any Action in their own Right, during the time they continue thus disabled, against another — Yet they may sue in the Right of another as being Executors or Administrators, &c. so far as

## Of Declarations.

3

is needful to the performance of their Trust; also after their Disability is removed by Pardon, Reversal, Absolution and the like, they may bring their Action, and maintain a Declaration in their Right, as well as other Persons. Impediments removed.

All other Persons not disabled, either Man, Woman or Child, Ideots, Madmen, Deaf or Dumb, &c. may bring an Action proper for their Remedy, and also are liable to be sued for their Injuries done to others—but regard must be had to these also.

### *Infant Plaintiff.*

For an Infant Plaintiff must sue by his next Friend or Guardian, unless he sue with others as Executor, &c. and then he shall sue by his Attorney; for all of them together represent the Testator.

### *Infant Defendant.*

An Infant Defendant must appear by Guardian; and an Ideot if he sue or be sued must do it in Person. Ideot.

### *Feme Covert.*

The Married Woman must sue with her Husband: And in all Cases where they are both sued (although the Husband may answer alone, yet the Wife shall never be forced to answer without her Husband) except being Sole-merchant, i. e. when she Sole-merchant.

## Of Declarations.

she carries on a sole and separate Trade (and this by the Custom of the City of London.)

### *Executors, &c.*

Executors, when they bring an Action must all be named; but when an Action is brought against them, it must be only against such of them as do Administer, and he that first cometh, shall first answer.

### *Joynt-tenants.*

Also if two Men have Lands and Goods together in Joint-tenancy, and be wronged in them; regularly they must sue jointly in one Action for it.

### *Tenants in Common.*

Tenants in Common ought to join Actions Personal, but not in Real; and Affize and Slander of Title they ought sever.

### *Joining of Plaintiffs.*

Divers Persons may have an Action Trespass jointly for Goods taken, or the like; but of Battery or such personal Trespas, the Action ought to be single.



## Of Declarations.

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### *Two Plaintiffs and several Causes.*

Two or more Plaintiffs cannot sue in one Action for several Causes, though the Causes be of the same kind; and therefore two cannot join in one Writ to sue upon two Bonds for Debt due to them apart, or to sue one Man for Trespafs done to them severally.

Yet if two or more have cause to have one Action; as if a Bond, or Promise be made to two or more jointly; in this case they may, and must sue all together.

### *One Plaintiff and several Actions.*

But one Plaintiff may join two Debts due unto him from one and the same Defendant in one Action, as Debt upon two several Obligations; and so it is of other Personal Actions, but it cannot be done in Real Actions.

### *Joining of Actions.*

So Assault, Battery and Ejectment may be in one Declaration: And it is a Rule, General Rule.

That in Personal Actions one may join several Causes or Wrongs in one Action or Writ, if they be of one Nature and against one Person, as Debt and Detinue, &c. So one Action of the Case may be brought for divers Promises; one Action of Waste for divers Wastes of divers Lands held by divers Leases; so one Action of

## Of Declarations.

Trespafs for divers several Trespaffes done in divers places and at divers times, or for divers Trespaffes in the same place at divers times.

*Wrongs of divers Natures.*

**Exception.** But Debt, and Trespafs, and Wrongs of divers Natures cannot be joined together in one Action, though against one and the same Person.

*Election of the Plaintiff.*

And if one Trespafs be done by divers, the Plaintiff may make it joint or several, as he pleases; and yet two that join in a Trespafs, do so make one Trespasser, that one of them is answerable for the other, and if they be sued in one Action, they may sever in Pleas and Issues, and a Release to one is a Release to all: Also the Jury must assess Damages for all, but there shall be but one satisfaction.

**But one Satisfaction.**

And note, that where a Joint-Action doth lie against divers, and some of their Names are known, and some are not; the Action may be brought against them that are known, by their particular Names, and *Simul cum*, declare with a *Simul cum aliis*, &c.

## Of Declarations.

2

*In what time Actions ought to be brought.*

Thus we have seen by and against whom Actions may be brought; but we must further observe, that these Actions ought to be brought in due time, or they will have no Effect, for they are limited to a certain time by the Statute of Limitations, 21 Jac. 1. 16.

### *Statute of Limitations.*

The Statute runs thus, viz. That all Actions upon the Case (other than for Slander) Actions for Account (other than concern Merchandize) Actions of Trespass, Debt, Detinue, Trover and Replevin, shall be commenced within six years after the Cause of such Action or Suit, and not after. 6 Years.

All Actions of Trespass, of Assault, Battery, Wounding and Imprisonment, within four years after the Cause of Suit, and not after. 4 Years.

All Actions upon the Case for Words, within two years after the Words spoken, and not after. 2 Years.

### *Action saved.*

The right of Action in the Cases above-said is saved to an Infant, Feme-Covert, By removing Imperfections. Non Compos Mentis, a Person imprisoned or beyond Sea; so as they commence their Suits within the times limited respectively after their Imperfections removed.

B 4

Provided



## Of Declarations.

New Action  
within a  
year.

Provided also, That if in any such Actions, Judgment be given for the Plaintiff, and the same be reversed by Error, or a Verdict pass for him, and upon motion in Arrest of Judgment it is given against him; or if the Defendant be Outlawed in the Suit, and after reverse the Outlawry—In these Cases the Plaintiff, his Heirs, Executors or Administrators may commence a new Action within a year after such Judgment reversed or given against the Plaintiff or Outlawry reversed, and not after.

See 1 *Sau.* 35, 37. 2 *Sau.* 62, 118, 123, 280. 2 *Ven.* 256. 1 *Lut.* 99, 243, 257, &c.

## Of Suing out an Original.

By Suing  
out an Original.

Yet notwithstanding this Statute, it is held, That if one sue out an Original, or take out a *Latitat* within the time limited by the Statute; it is a good bringing of the Action in due time, and he is not to be barr'd by the Statute, although he do not declare against the Party within the time limited.

Also Actions given by particular Statutes must observe the time limited by such Statutes. *Vide ut supra.*

## Of laying of Actions.

The next thing to be considered is, Where the Cause of Action must be laid; for which observe,

That

## Of Declarations.

9

That all Real and Mixt Actions, as Waste, Local Ejection' Firmae, &c. must be laid in the same County where the Land lieth, for they are Local Actions; so are Trespasses of *Quare Clausum Fregit*, and the same places where the Wrong was done, must be set down in the Declaration.

But all Personal Actions, and all Transitory Actions, as Debt, Detinue, Assault, Annuity, Account, &c. may be brought in any County, and laid in any place there where the Plaintiff pleaseth: And the Defendant cannot traverse it, and say it was done in another place.

Except it be against an Officer who hath special Cause of Justification by his Office, as to the Place; as if an Action be brought against a Constable of a Town for Arresting a Peace-breaker, and the Action is laid in another County, there the Officer may traverse the County, and all other Places, saving the Town whereof he is Constable; and it is the like for taking of Goods, Damage Feasant laid in another County.

So that if an Action be brought against an Officer for any thing done about his Office, it must be laid in the County where the Fact was committed, or upon Trial it will go against the Plaintiff.——So when an Action is brought against a Man for doing any thing by Virtue of an Act of Parliament.

And note, that it is the better and more indifferent Course, that Transitory Actions be laid in that County where the Cause of Action did first arise; for otherwise the Court

Altering of Court upon an *Affidavit*, does most commonly alter the *Venue*.

**Lessee.** An Action by a Lessor against the Lessee for Rent, may be brought either where the Land lies, or where the Demise was made; but when such Action is brought by or against an Assignee, it must be brought where the Land lies.

**Grantee.** So Debt by an Executor of a Grantee of a Rent-charge for Arrearages, must be where the Land lies.

**Devisee.** So Debt for Rent by the Devisee of a Reversion shall be where the Land lies.

### *Of the Parts of Declarations.*

**N**Ext we come to the Declaration it self, wherein is to be set forth.

- |                      |  |
|----------------------|--|
| <b>Plaintiff.</b>    | 1. Who complaineth, <i>viz.</i> the Plaintiff.             |
| <b>Defendant.</b>    | 2. Against whom he complaineth, <i>viz.</i> the Defendant. |
| <b>Cause.</b>        | 3. For what Cause or Matter.                               |
| <b>Manner.</b>       | 4. How and in what manner the Action grew.                 |
| <b>Time, &amp;c.</b> | 5. The Time and Place the Wrong was done. And,             |
| <b>Damage.</b>       | 6. The Damage sustained, by the Wrong done.                |
| <b>Certainty.</b>    | Also the Declaration ought to be true, clear and certain.  |

**I. Sufficient**



## Of Declarations.

II

1. Sufficient Certainty whereupon the Court may judge.
2. Sufficient Certainty to which the Party may answer.
3. Sufficient Certainty upon which an Issue being joyned, the Jury may give a Verdict without being inveigled.

And it is laid down for a Rule by some, <sup>Antient and Modern Forms.</sup> That the antient Form of Counts are best to be observed. And this may be true, especially in Real Actions; yet in Personal Actions, &c. our Modern Pleaders have much endeavoured to excel.

The King's Bench (or Queen's Bench) and Common Pleas differ in Forms of Declarations, as is observed in the First Book, pag. 17 and 18. and by the Presidents following.

Yet when they proceed in the Queen's Bench by Original, as they well may, then there is little or no difference.

Note also, that many Writs and Declarations, formerly much in use to try Titles, &c. are now laid aside, being supplied by other Actions, as by Case, Trespass, Replevin, Ejectment, &c. being both a quicker and easier way.

Also most Declarations and Counts which are found amongst Presidents either Antient or Modern, are comprehended under these Heads following, viz.

### I. Account

The sever-  
al kinds  
of Declara-  
tions and  
Counts.

- |   |   |
|---|---|
| 1. Account.                                       | 27. Ejectment.                          |
| 2. Admeasurement.                                 | 28. Entry.                              |
| 3. Annuity.                                       | 29. Escheat.                            |
| 4. Appeal.  | 30. Estrepment.                         |
| 5. Assize.  | 31. <i>Ex gravi Querela.</i>            |
| 6. Attaint.                                       | 32. Formedon.                           |
| 7. <i>Assita Querela.</i>                         | 33. Intrusion.                          |
| 8. <i>Ayle &amp; Besayle.</i>                     | 34. Information.                        |
| 9. <i>Action sur le Case.</i>                     | 35. <i>Juris Utrum.</i>                 |
| 10. <i>Action sur le Sta-<br/>tute.</i>           | 36. Mesne.                              |
| 11. <i>Cessavit.</i>                              | 37. <i>Monstraverunt.</i>               |
| 12. Claim and Co-<br>nufance.                     | 38. <i>Nativo habend<sup>r</sup>.</i>   |
| 13. Conspiracy.                                   | 39. <i>Ne injuste vexes.</i>            |
| 14. <i>Contra Formam<br/>Collationis, &amp;c.</i> | 40. <i>Nuper obiit.</i>                 |
| 15. Covenant.                                     | 41. Nufance.                            |
| 16. <i>Cui ante Divor-<br/>tium.</i>              | 42. <i>Parco fracto.</i>                |
| 17. <i>Cui in Vita.</i>                           | 43. Partition.                          |
| 18. <i>Curia claudenda.</i>                       | 44. Petition.                           |
| 19. <i>Decies tantum</i>                          | 45. Prohibition.                        |
| 20. Debt.   | 46. <i>Quare impedit.</i>               |
| 21. Detinue.                                      | 47. <i>Quare non admittit.</i>          |
| 22. Disceit.                                      | 48. <i>Quid Juris cla-<br/>mat.</i>     |
| 23. Dower.  | 49. <i>Quod ei de forc<sup>r</sup>.</i> |
| 24. <i>Droit.</i>                                 | 50. <i>Quod permittat.</i>              |
| 25. <i>Dum fuit infra<br/>Etat.</i>               | 51. <i>Quo Jure.</i>                    |
| 26. <i>Dum non fuit com-<br/>pos Mentis.</i>      | 52. <i>Quo Warranto.</i>                |

## Of Declarations.

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53. <i>Rationabili parte Bonorum.</i>	Avowry.
54. <i>Rationabili parte Terræ.</i>	59. <i>Rescous.</i>
55. <i>Rationabilibus divis.</i>	60. <i>Scire Facias.</i>
56. <i>Ravishment de Gard.</i>	61. <i>Trespafs.</i>
57. <i>Recaption — Re-ſta Custod'.</i>	62. <i>Trover.</i>
58. <i>Replevin and</i>	63. <i>Warrantia Carte.</i>
	64. <i>Waste.</i>

Of which ſaid ſeveral Writs and Counts, Caſe, Covenant, Debt, Ejectment, Trefpaſs and Trover, are the moſt uſual.

And of theſe alſo Caſe, Debt and Trefpaſs are the moſt general, and therefore I ſhall chiefly inſiſt upon them; and refer you to read the Nature of the reſt more at large in *New Fitz. Nat. Brevium*; and for the Writs, Counts and Pleadings, ſee *Reg. Original. Townſends Tables, &c.*

## C A S E.

*Action of the Caſe defined.*

**T**HIS is an Action brought againſt a Man, for an Offence done without Force: And is called Action of the Caſe, becauſe the whole Caſe, ſo much as is in the



the Declaration (save only the Time and Place) is set down in Original Writings. And there is no other Action given in the Case, save only in some new Cases where the Plaintiff hath his Choice to bring this or some other Action.

Great variety reduced into two Heads.

The Variety of these kinds of Actions is great, daily increasing, and continually receiving new Forms according to the Deceits and Inventions of Men. But I shall reduce them into these Heads, viz.

1. Case about WORDS.
2. Case about DEEDS.

### 1. WORDS.

Case about Words, is when another speaketh Words to, or of me, by which speaking I am any way damnified; and these are called Actions of Slander or Defamation; and it is either of Great Men or Ordinary Men.

Slander  
*Scandalum*  
*Magnatum.*

Slander of  
Person.  
Slander of  
Title.

Life.

Livelihood.  
Good  
Name.

Slander by  
Action.

Also amongst Slanders and Defamations some tend to the Disgrace of the Person or another; — Some to the Disgrace of the Title of his Lands.

Those against the Person also do some of them tend to the Peril of his Life; some to his Prejudice in his Livelihood and Estate and some to his Reproach in his Name only.

A Defamation also may be by Deed as by bringing of an Action or the like.

### 2. DEEDS.

2. D E E D S.

Case about Deeds is either, 1. For not doing what a Man ought to do, either by his own undertaking, or the requiring of Law, called *Non Fesance*.

2. Or for doing something otherwise than he should do, called *Misfesance*, 4 Co. 92. Dyer 8. 72.

3. Or it is for doing something he should not do, called *Malefesance*. Doing what he should not,

Also these Actions for Deeds are either upon,

1. An *Assumpsit* or Promise, and that is either exprefs or implied by Law. *Assumpsit*.

2. Or upon a Nufance, where a thing is done or omitted by a Man upon his own Ground or elsewhere, to the unlawful Hurt of another that is his Neighbour, in his Free Land or otherwise. Nufance.

3. Or upon a Deceit, Original or Judicial. Original is done by one Man to another. Judicial by some Minister or Officer, as Sheriff, Attorney, Counsellor, &c. Deceit.

4. Or upon a Breach of Trust, by Steward, Bailiff, Servant, Innkeeper, &c. Trust broken.

5. For a Trover and Conversion, against one that hath gotten the Goods of another, and doth refuse to deliver them. Trover. Law suits

6. Or about Suits in Law. Robbery against Hundred, &c.

7. Or against an Hundred upon a Robbery.

8. Or

8. Or for doing, not doing, or misdoing in other like Cases.

### First of Slander.

#### *What Words are Actionable in Matter.*

All scandalous Words which touch a Man's Life, as 1. To say he is a Traytor, Thief, Buggerer, Sodomite, Robber, Murderer, Felon, Sacriledger, House-robber, &c. or to say he hath committed Treason, Buggery, &c. 10 Co. 130. 4 Co. 15, 16 Dyer 19, 26, 236.

2. Or which concern him in Member or loss of Limb, &c.

3. Or which touch him in his Liberty and were they true, would bring shame or Punishment or Imprisonment on him, 4 Co. 15, 17.

4. Or which Scandal a Man in his Office or Place of Trust; as to say of a Judge or Justice of Peace, he is a corrupt Judge or Justice of Peace, or the like, 4 Co. 16, 19. 10 Co. 61.

5. Or which slander a Man in his Calling or Trade by which he gets his Living, as to say of an Attorney, He is a cheating Knave; or of a Tradesman That he is a Bankrupt, 4 Co. 17, 19. H. Pl. 93, 106.

6. Or which tend to the loss of a Man's Preferment, as to say to a Man about to be preferred to a Benefice, That he is an Heretic; or of a Woman like to have an Husband, That she is a Whore, or the like,



by this means they lose their Preferment;  
4 Co. 16.

7. Or which charge a Man to have a dangerous Disease, by reason of which he ought to separate himself, or be separated by the Law from the Society of Men, as to say, A Man hath the *French Pox*, the *Plague*, or the like; 4 Co. 17. *Hob. Pl.* 290.

8. Or which tend to the slandering a Man's Title, as to say he hath no Estate in his Manor, &c. when he is about, and hath need to sell it, or the like, 4 Co. 18. 1 Co. 177.

9. Or which tend to a Man's Disinheritance; as to say of an Heir to Land, he is a Bastard, &c. 4 Co. 17.

10. Or which tend any way to a Man's particular Damage.

All which words are Actionable, 3 Co. 13.

14. 10 Co. 130. *Dyer* 26, 72.

Much much might be said concerning the Words and Manner; but if they be such as above, it matters not,

1. Whether they were spoken or written before his Face, or behind his Back, 4 Co. 14, 15. *Hob. Pl.* 292. The manner of the Slander.

2. Nor whether in the second or third Person, 4 Co. 14, 15, 16.

3. Nor in what Language, if the Hearers do or may attain to understand it, *Hob. Pl.* 165, 236, 351, 276, 63.

4. Nor whether they be uttered by way of Affirmation, or Hearsay, or Report, *Case. 15 Car. Appleton's Case, &c.*

5. Nor

5. Nor by way of Earnest, or seemingly in Jest.

6. Nor whether the Speaker be Sober or Drunk with Wine or Passion.

7. Nor whether the words were delivered in one or more Sentences.

8. Nor whether directly, indirectly or obliquely, for the Action doth lie alike in all the Cases.

Na

And where the Slander doth concern a Man's Life, Liberty, Member, Corporal Punishment, Office, Trust, Calling, or Foul Disease to cause a Separation; the Plaintiff need not aver any particular Damage, as in other Cases he must.

The sense  
of the  
Words.

In these Actions for Words, the Law doth much heed how the Words do sound and are esteemed amongst the Men of the Place where they are spoken, whether they be odious in the estimation of Men or not: And for this Cause it is held, that Words may be actionable in one County that being spoken in another are not; and this seems to be a sure Touchstone of actionable Words.

Also the Sense of the Words in these Cases is much looked upon by the Law, and for the finding out thereof, the Occasion, Subject-matter and Coherence of the Discourse must be weighed, *Sensus verborum sumendus ex causa dicendi*, 4 Co. 16.

And they are to be taken as they are spoken *conjunctim & uno halitu*, New Books of Entries, fol. 226.

Yet note it is said, That it matters not Caution of drawing Narr. whether the Plaintiff doth in his Count set forth all the Circumstantial Words as they are spoken, so as he set forth the very Words truly that are Actionable, and that he must be sure of, for a little variance may spoil all.

Therefore such as doubt, do charge the Words said Defendant with speaking of various Words several ways. at several times and several ways, and by that are sure in one of them to hit upon the very Words themselves, or the substance thereof. — But then care must be taken that the Jury assess Damages only for the Words that are spoken, 1 Cro. 238.

This may suffice by way of Introduction, there being some Books written particularly on this Subject, as *March of Slander*, *Sheppard of Slander*, &c. yet two or three Words more of *Scandalum Magnatum*.

### Of *Scandalum Magnatum*.

*Scandalum Magnatum*, is a Wrong done to some Eminent Person of the Land, as Duke, Earl, Baron, Chancellor, Treasurer, Privy Seal, Justice of one Bench, or of the other, by False News, or False Messages, whereby Debates and Discords between them, or any Scandal to their Persons may arise, *Stat. 2 Ri. 2. cap. 5. West. 1. cap. 34.*



## Of Declarations.

And the Party may bring it in the Name of the King or Queen Regent, and his own, and recover Damages for the Wrong, and the Defendant shall be otherwise punished: And if the Slander be divulged in the nature of a Libel, it is punishable by Indictment and Fine, 5 Co. 125. *Crompt. Jur.* 13, 19, 35.

And it matters not in what manner Words or Report be published, whether by Speech or Writing reported from another, or spoken by ones self, or by hanging up a Writing in any open place, *Crompt. Jur.* 13.

Modern Presidents in this Action; See 4 Co. 13. 2 Bro. 16. *Vidian* 61, 63, 72, 74. *Cl. Man.* 160. *Simile pro Duce.* Bro. Re 28.

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Scandal

## Scandalum Magnatum.

For Words spoken of a Peer.

Quidam ff. **M**emozandū quod alis scit  
 Terminū Scti Hillar' ult  
 pterito coram Dña Regina apud Westm  
 den pprehonorabilis Thomas Comes H.  
 unus pcerum & Magnatum hujus Regni  
 Angl' qui tam p Dña Regina quam p  
 seipso sequitur p C. D. Attorū suū Et  
 pult hic in Cur' dia' Dñe Regine tunc  
 ibm quandam Willam suam filius R. S.  
 in Custod' Marri, &c. de plito transgrē &  
 contemptu contra formam Statut' de  
 Scandalis Magnatum nup edic' & pbiā  
 Et sunt pleg' de psequend' scit Johes Doe  
 & Ricus Roe Que quidem Billa sequi-  
 tur in hec verba ff. Quidam ff. Pprehono-  
 bilis Comes H. unus Procerū & Mag-  
 natum hujus Regni Angl' \* qui tam p  
 Dña Regina quam p seipso sequit' que-  
 rit' de R. S. in Custod' Marri Marese  
 Dñe Regine coram ipsa Regina existēd'  
 p eo videlt quod cum idem Thomas Co-  
 mes H. sexto die Augusti Anno Regni  
 Dñe Marie nunc Regin' Angl', &c. se-  
 cundo & diu antea & continue postea huc-  
 usque fuit unus Procerum & Magna-  
 tum hujus Regni Angl' & Vocem & Vo-  
 cam in Parlamento dia' Dñe Regine  
 nunc Angl' ut unus Procerum hujus  
 Regni Angl' habuit & adhuc habet pdiā  
 tamen R. S. machinans & malitiose in-  
 tendens

Vide postea.

\* The rea-  
 sons that  
 these Acti-  
 ons are  
 brought as  
 well for the  
 King (or  
 Queen Re-  
 gent) as  
 for the  
 Plaintiff.

Contra for-  
mam Stat.

tendens contra formam Statue in huius  
modi Casu nup edic & pbiis magnum  
Scandalum excitare de pdicto Comite  
quod discorde & lites inter eundem Co-  
mitem & al Procere & Magnates & alios  
Subditos dic' Dñe Regine huius Regni  
Angl oriri possent pdicto sexto die Au-  
gusti Anno secundo supradicto apud B  
in Com ptes habens colloquium cum quo-  
dam P. G. de & concernen ptes Comite  
hec fla fitta scandalosa & opprobriosa An-  
glicana verba sequen in plen & auditu  
diversorū dic' Dñe Regine nunc fidelium  
subditorū adtunc & ibi plen & audien  
de eodem Comite adtunc & ibi falso ma-  
litiose & scandalose dixit retulit ppalabi  
& publicabit videlt The Earl of H. p  
dictum Comitem innuens is of so little  
Esteem in this County, that no Man of  
Reputation hath any Esteem for him (p  
dictum Comitem iterum innuens) and he  
(pdictum Comitem iterum innuens) is a  
pitiful Man, and no Man will take his word  
for two Pence, and Men of Reputation va-  
lue him (ptes Comitem iterum innuens)  
no more in the County than I (seipsum  
H. S. modo defend innuens) value the  
Dirt under my Feet Quorum quidem fa-  
lorū fitorū & scandalosorū Anglicanorū  
verborū dictorū ppalatorū publicatorū  
affirmatorū prextu Idem Comes maxi-  
mam honozis & estimatorū suorum apud  
Procere & Magnates ptes & alios dic  
Dñe Regine nunc subditos lesionem su-  
biit & passus est ac etiam displicentia dic  
Dñe Regine erga pfac Comitem necno-  
dis



disla magna discordia & scandala infra  
hoc Regnum Angl in ipsum Comitem &  
diversos alios Procures & Magnates &  
alios subditos dic' Dñe Regine hujus  
Regni Angl oriuntur ac indies magis  
magisq; occone p'dicta oriiri verisimilia  
sunt in magnam pturbatōm tranquilita-  
tis hujus Regni Angl in dic' Dñe Regine  
nunc contemptō & ipsius Comit' Mag-  
num Scandalum & gravamen & contra  
formam Statuti p'ed ad dampnū ipsius  
Com' \* qui tam &c. 2000 l. Et inde idem  
Comes tam p' Dñā Regina quam p' seip-  
sū p'ducit sectam, &c.

\* The Reasons why these Actions are brought by **Qui tam, &c.** are two; First, because they touch the Prelates, Nobles and Great Officers, who are of the Council of the King (or Queen Regent) and of Eminent Qualities, and serve in High and Honourable Offices, and by Royal Authority they have the Administration of Justice towards the Subjects; by which it appears, That slandering of them does principally concern the Royal Government. Secondly, because of the intent of the Statute of **Ri. 2. c. 5.** That says, whereby Peril, Mischief and Destruction might come to all the Realm, which also concerns the King, being the Head of all the Realm, &c.

For Writing and Publishing a Scandalous  
Narrative concerning a Peer, &c.

Statut. in  
R. 2. reci-  
ed.

**H**ENRICUS Dominus E. Baro  
de F. unus Procerum &  
Magnatum hujus Regni Angl<sup>e</sup> qui tam  
p<sup>ro</sup> D<sup>omi</sup>na Regina quam p<sup>ro</sup> seipso sequitur in  
hac parte queritur de G. H. in Custos  
Marr<sup>i</sup>, &c. p<sup>ro</sup> eo videlicet quod cum in Par-  
liamento D<sup>omi</sup>ni R<sup>egis</sup> nup<sup>er</sup> Regis Angl<sup>e</sup> se-  
cundi post Conquestum apud Glouc<sup>estria</sup> anno  
Regni sui secundo tene<sup>re</sup> edie (ine alia  
ordina<sup>re</sup> & stricte prohibe<sup>re</sup> fuit quod nullus  
adeo audax foret ad devisand<sup>um</sup> dicend<sup>um</sup> &  
referend<sup>um</sup> de aliquibus Prelatis Ducibus  
Comitibus Baronibus & aliis Nobilibus  
& Magnatibus Regni Angl<sup>e</sup> nec de Can-  
cellario Thesaurario seu Clerico Privatus  
Sigilli Angl<sup>e</sup> Seneschallo Hospit<sup>alis</sup> D<sup>omi</sup>n<sup>i</sup>  
Regis Justiciari<sup>um</sup> de uno vel altero Baro-  
neq<sup>ue</sup> de aliis magnis Officiari<sup>um</sup> Regni p<sup>ro</sup>-  
aliqua falsa nova mendacia sive aliqua  
alias falsas res unde discordia seu al-  
quod Scandalum infra dict<sup>um</sup> Regn<sup>um</sup> op<sup>erari</sup>  
possit put in eodem Statuto inter ali-  
plenus continetur p<sup>ro</sup>dictus tamen G. H.  
Statuto p<sup>ro</sup>dicto minime ponderans dec-  
mo die Julij anno Regni D<sup>omi</sup>ne Anne nup<sup>er</sup>  
Regine Angl<sup>e</sup>, &c. secundo apud Westm<sup>onasterium</sup>  
in Com<sup>munis</sup> M<sup>agistratus</sup> p<sup>re</sup>dicti (conspiratone cum qu-  
dam A. B. eisdem die & anno phabita<sup>re</sup>  
quoddam falsum imaginatum & scanda-  
losum scriptum vocatum a Narrative &  
eodem Henrico Domino E. & de & con-  
cernit

cernendū dīverſa Crīmīna & p̄ſertīm ſubor-  
 nationē perjuriꝝ p̄ ipſum Dominum Hen-  
 ricum E. & alios ex parte ipſius Hen-  
 rici tunc adhuc unū Procerum & Mag-  
 natum hujus Regni Angl̄ exiſtendū & vo-  
 cem & locum in Parlamento dicte Dñe  
 Regine nunc ut unius Procerum & Mag-  
 natum hujus Regni Angl̄ hēntis p̄petra-  
 toze ſuppoſitē ſcribi & in p̄ſentia dīverſo-  
 rum ſubditoꝝum dicte Dñe Regine nunc  
 publicari p̄curabit Cujus quidem ſcripti  
 tenor eſt p̄out ſequitur ſc. A Narrative  
 of the horrid and deteſtable Deſign of the  
 Lord E. againſt L. M. in compelling him to  
 ſwear againſt T. W. Eſquire, &c. (reciting  
 the Narrative) p̄textu cujus quidem ſcrip-  
 ti ſic ſcripſit & publicat dīverſa rumores &  
 ſcandala verſus ipſum Henricum Domi-  
 num E. orta & habita fuerunt Ac idem  
 Henricus Dominus E. in magnam diſ-  
 plicentiam & diſſidentiam dicte Dñe Regi-  
 ne ac dīverſoꝝum Procerum & Magnatū  
 hujus Regni Angl̄ incidit Ita quod i-  
 dem Henricus Dominus E. favorem gra-  
 tiam & bonam opinionem quas idem  
 Dña Regina & dīverſi Proceres & Mag-  
 nates hujus Regni Angl̄ p̄antea erga  
 ipſum Henricum Dominū E. habebant  
 amiſit ac idem Henricus Dominus E.  
 in magnum periculum incurrendi penas  
 contra ſubornatoꝝes perjuriꝝ per Leges  
 hujus Regni Angl̄ p̄obis incidit & mag-  
 na ſcandala & diſcordie infra hoc regnū  
 Angl̄ oriebantur inter dīverſos Proceres  
 & Magnates ejusdem regni ac indies  
 magis magiſq; oriri verifiſſimilia ſunt in  
 magnū



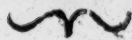
magna perturbacionem publice tranquillita-  
tis ejusdem regni & ad dampnum ipsius  
Henrici Domini &c. quinq; mille librarum  
Et inde tam pro Domina Regina quam  
pro seipo producit sextam, &c.

*Note,* It matters not in what manner the  
Words or Reports be published, whether by  
Speech or Writing, reported from another  
or spoken by one self, or by hanging up a  
Writing in any open place; for Publica-  
tion may be by Writing, &c. as well as by  
Speech, *Crompt. Jur.* 13. 35. *Vide Dyer* 285  
*Pl.* 37. *Kelw.* 26, 27. 2d. Part *Co. Inst.* 228  
*Leon.* 336. *Dyer* 155. *Hetley* 55. 12 *Co.* 134  
1 *Cro.* 96. 2 *Cro.* 196.

Also the Statute of 12 R. 2. 11. saith, That  
when any one hath spoken falsities contra-  
ry to the Statute *West.* 1. 33. 3 E. 1. 2 R. 2.  
1. 5. and cannot produce the Author, and  
is thereupon imprisoned, he shall after-  
wards be punished by the Queens Council  
notwithstanding the said Statute of *West.* 1.  
which also provided Imprisonment.

*Vide Rast. En.* 13. *de Billa Scandalosa veri-*  
*quer. fixa ad ostium Eccles.* *vide postea* 99.

*De scribendo & publicando falsum libellum,*  
&c. 2 *Bro.* 22. 1 *San.* 120. (*Bro. Red.* 72. de  
*mn<sup>o</sup> Procerum*) *Bro. Met.* 3. *vide postea* 96,  
99. Slander per Libel.



For Words charging the Plaintiff to be a  
Traitor.

**A**. B. nuper de G. in Com p<sup>d</sup> Gen  
Attach fuit ad respond C. D. Mil  
de p<sup>l</sup>ito transge super Calum, &c. Et un-  
de idem C. p J. Attoz<sup>d</sup> suum queritur  
quare cum idem C. verus & fidelis ligeus  
D<sup>n</sup>e Regine nunc existit ac ut verus li-  
geus ejusdm D<sup>n</sup>e Regine & Progenitoz<sup>d</sup>  
suozum nuper Regum & Regin Angl a  
tempore Nativitatis sue hucusque se gel-  
sit & huerit bonozumq; nois & fame ex-  
titerit & pro hoie bone conversacionis a-  
pud quamplurimos ligeos & D<sup>n</sup>e Regine  
notus dice & reputae fuit p<sup>re</sup>dicce tamen  
A. p<sup>re</sup>missozum non ignarus set machi-  
nans p<sup>re</sup>fac C. non solum in odium &  
displacenciam D<sup>n</sup>e Regine nunc quozum  
gratiam & favorem idem C. p<sup>re</sup>ntea gra-  
tiosissime huerat necnon in malam opi-  
nionem omnium fidel subdie suozum in-  
nocene inducere & inferre verum etiam  
eundem C. in omniū & singuloz<sup>d</sup> Bonoz<sup>d</sup>  
& Catalloz<sup>d</sup> Terrarum & Centoz<sup>d</sup>  
suozum necnon Dite sue amissionis pi-  
ctum induci caulare 20 die Junij Anno  
Regni D<sup>n</sup>e Regine nunc secundo queda  
verba scandalosa falsa & mendacia de p<sup>re</sup>-  
fac C. apud C. in auditu diverloz<sup>d</sup>  
dice D<sup>n</sup>e Regine nunc subdie dixit pro-  
palabit & publicabit ut in Anglican se-  
quie verbis, viz. A. B. (ipsum A. B.  
innuend) is a Traitor to the Queen Dom  
Regin

**Slander.** *Reginā Angl, nunc innuendo*) and holds  
 Correspondence with the French King  
 (*Ludovicum tunc & nunc Regem in*  
*francia Inimicum Dñe Regine nunc*  
*innuendo*) Quorum quidem falsozum  
 fictozum & scandalosozum verbozum dic-  
 tionis & publicatō p̄textu idem C. non  
 solum in bonis noīe fama & estimatō  
 suis apud Dominū Reginam nunc & om-  
 nes fidel subdie suos lesus est & p̄o in-  
 fidel subdie ipsius Dñe Reginā nunc su-  
 spece hetur verum etiam diversis cog-  
 poris sui laboribus p̄o declaratō inno-  
 centie sue in hac parte subire necnon di-  
 versas denar summas expendere & ero-  
 gare coact & compulsus fuit ad dampnū  
 ipsius C. 2000 l. Et inde produc sectā, &c.

The Plain-  
 iff need  
 not shew  
 any special  
 Case.

*Note,* The Common Pleas many times  
 used to begin their Declarations in Case  
 without naming their Plainriffs Attorney  
 in the beginning, but reciting the whole  
 Case by way of an Original, to the words  
*ad dampnum, &c.* And then *Et unde idem*  
 (the Plainriff *per E. F. Attorn. suum queritur,*  
*Quare cum.*) &c. and so go over the whole,  
 setting forth the day and year again, and  
 then conclude, *Et inde produc. sectam, &c.*  
 but the shorter way is now mostly used.  
 See after.

*Note,* This Action may be brought for  
 these and such like Words: *He hath com-*  
*mitted Treason. Thou hast spoken Trea-*  
*son, and I will prove it. Thou dost har-*  
*bour and maintain Rebels and Traitors.*  
*Thou wast Partaker with the Rebels in the*  
*North*



*North* in their Rebellion. Thou art a Coiner of false Money, and I have Money to shew which thou Coinedst. Thou hast forged a Privy Seal, and the like. Slander.

So for saying, *J. P.* did say, that *J. L.* (the Plaintiff) did say there is no Prince in England, with averment, That *J. P.* never spake any such Words.

But to say, I have heard that *A. B.* is a Traitor, if he say by whom he heard it, and in truth he did hear it, it is not Actionable.

It is said to be Actionable for these words, Thou hast a Traitor to thy Master, *innuendo* the Plaintiff, &c. *Vide* 2 Cro. 407, 235. *Goldsb. Pl.* 7. 48, 441. 2 *Bulst.* 109. 1 *Bustl.* 148. 1 Cro. 602, 621, 629, 638, 876. *Stiles* 435. 3 *Bulst.* 225. 1 Cro. 906, 157. *Vide* 4 Co. 19. 2 *Bulst.* 210. 1 Cro. 171. See *Presidents Hansard* 29. *Clark's Aff.* 221. *Placit. Gen.* 17. *Vide Presid. de verbis contrasecti-onis monete, Thomp.* 54.

For Words touching a Man's Life for Murder.

*Northton ff.* **A**. *B.* queritur de *C. D.* in Custod *Mare* *Mare* *rele* *Dñe* *Regine* *cozam* *ipsa* *Regina* *ex-* *isten* *pro* *eo* *videt* *quod* *cum* *idem* *M.* *bonus* *credibilis* *verus* *&* *fide* *dignus* *Dñe* *Regine* *nunc* *subdic* *&* *ligeus* *existit* *ac* *ut* *hujusmodi* *subdic* *&* *ligeus* *ejusde* *Dñe* *Regine* *nunc* *&* *diversorum* *proge-* *ditorum* *suoꝝum* *nuper* *Regum* *&* *Regin* *Angl*

Slander.

Angl in quibuscumque intromissionibus re-  
 bus & Conuersationibus per ipsum ha-  
 ctenus actis habie seu quovismodo factis  
 a tempore Patibitatis sue hucusque se ge-  
 lerit usus fuerit tractaverit & governa-  
 verit ad dextram & sinceram vivendi for-  
 mam hactenus instituerit & insequutus  
 fuerit Regum terre hujus Regni Angl  
 Fautor & Conseruator diligentissimus  
 totum tempus predictum existens Deum  
 pre Oculis suis semper preponens ac  
 quovis genere Mordri vel Felonie ac  
 alij hujusmodi Criminis ac a cujuscumque  
 hujusmodi Sceleris percuratore sive eo-  
 alicujus nota vel suspitione quacumque  
 per totum vite sue tempus retroactum  
 innocens immunis liber & penitus in-  
 spece remanserit & continuaverit ac  
 hujusmodi delice & in eisdem delinquere  
 condignas penas juxta eorum denierit  
 confessim sustineret hucusque strenue  
 elaborabit quorum preteritu idem A. fa-  
 vorem & benevolentiam diversorum Princi-  
 cerum & Magnatum hujus Regni Angl  
 plurimorumque venerabilium & fidelium  
 ejusdem Dne Regine nunc subditorum  
 merie & obtinuerit ac Personam famam  
 estimationem Terre Tenement Bona  
 Catalla sua salva & illesa hactenus con-  
 servaverit rigori juris pro homini male-  
 ficiozibus pbiis minime subjecte predictis  
 tamen C. premissorum non ignarus felici  
 Statui ipsius A. malitiose invidens  
 machinam & intendem eundem A. non so-  
 lum de bonis nomine fama credentia  
 estimatione suis predictis deprivare  
 ipsum

# Of Declarations.

31

Slander.

ipsum in odium & displicentia Procerum & Magnatum quorum favorem & amorem idem A. gratissime & acceptissime censuerat & huerat innocentem inducere & inferre verum etiam in omnium & singulorum Honorum & Catallorum Terrarum & Centorum suorum necnon Vite sue amissionis periculum induci causare undecimo die Septembris Anno Regni dice Dñe Anne nunc Regine Angl, &c. secundo apud W. in Com predicta hec falsa ficta scandalosa Anglicana Verba sequent in present & auditu diversorum dice Dom Regine nunc fidelium subditorum adtunc & ibi existent & audient de eodem A. ibi dixit publicabit & affirmabit videlicet A. B. (eundem A. B. modo quer inveniend) hath murdered one called R. ac scandalosa Anglicana verba illi in scriptis adtunc & ibi publice redigi & in presentia predicte adtunc & sepius postea ibi legi & divulgari causabit & procurabit ubi re vera idem A. de felon & Mordzo predicte sibi ut pfertur imposse aut de aliquibus aliis felon vel Mordzo in nullo unquam fuit vel est culpabilis Quorum quidam falso & scandalosorum Anglicanorum verborum predicationis & publicationis ac in scripe redace lectionis & divulgacionis causacionis & procuracionis predicte preterea idem A. non solum in bonis note fama credentia & estimatione suis predicte apud Proceres Magnos venerabit Viros & al dice Dom Regine nunc fidel subdie pred maxime scandalizatur & denigrat existit ac de nonnullis dice Dominus Regine

Also caused the words to be written, &c.



Slander.

Regine nunc subdie quibus innocentius  
 ipfius A. in hac parte incognie existi-  
 ptentis Murdri p[re]d[ic]ti co[n]sili[is] suspec[te] habi-  
 tur & reputatur verum etiam in odium  
 & displicentiam P[ro]cerum & Magnat[um]  
 p[re]dic[te] gravissima incidit & elapsus  
 sicq[ue] venerabil[is] Viri & al[ii] fidel[es] subdie p[re]-  
 dice qui antea emp[re]sonibus venditionibus  
 mutuisq[ue] contractibus cum eodem A. p[ar]-  
 tea uti frui & gaudere solebant postea  
 eodem A. incommittere aut rem habere  
 omnino destiterunt. Et seip[s]os a consue-  
 tione ip[s]ius A. semper postea hucusq[ue]  
 alienaverunt & retraxerunt idemq[ue]  
 dist[ri]ctas ingentes denariorum Summas  
 sedatione pl[ur]e falsoz[um] rumor[um] de ip[s]ius  
 occasione Scandali p[re]dicti sparsorum et  
 gare & exponere lace & compulsus fu-  
 Unde dic[itur] q[uo]d deteriores est & dampnu[m]  
 het ad valent[em] quingene lib[ras]. Et inde p[er]-  
 due sextam, &c.

*Note,* Where the Words charge the Plain-  
 tiff with the killing of a Man, it is a  
 way for the Plaintiff to shew that the Man  
 is dead, and was so when the words were  
 spoken, otherwise the Defendant by plead-  
 ing may shew he is or was alive at the  
 speaking of the words, and then no Action  
 will lie upon them. *Vide Dyer* 226. 1 C.  
 132, 133. 2 Cro. 352, 422, 438. *Stiles* 21  
 1 Cro. 231, 239.

For Words charging one to conceal  
 Murder, *Telv.* 154. *Stiles* 392, *Hetley* 70.

For charging to endeavour to Murder, Slander.

1 *Bul.* 2, 201. 2 *Bul.* 20. *Finch.* 186. *Lanes* *Rep.* 98. 2 *Bul.* 206. *Murrey's Case.*

But a Charge without an Act of endeavour or attempt, is not actionable, 4 *Co.* 18.

2 *Bul.* 206.

Nor for incertainty, *Hob.* 118, 375, 351, 196, 332. *Hetly*, 70. See *March of Slander*, Part 2. 6.

See *Presidents*, *Co. Entr.* 23. *Hern* 239.

1 *Brownl.* 261. *Placit. Gen.* 37. *Reads Dec.* 129. *Vide postea* 53.

For Words of Murder and Theft, *Vide Placit. Gen.* 37. *Reads Dec.* 129.

There are other Actionable Words which touch a Man in his Life; as to accuse him of,

1. Witchcraft.
2. Rape.
3. Sodomy or Buggery.
4. House-burning.
5. Theft of Horses, and the like, above the Value of 12 *d.* &c. which to commit, by the Law is death.

**A.** Queritur de C. D. in Custod Case for  
*Marr, &c.* p eo videst quod eo calling on  
*pred A.* bonoz nominis fame condico Witch.  
 gestur conversacion & gubernacion a tem-  
 pore nativitate sue hucus se gessit & huc  
 ac hujusmodi bonoz nominis fame con-  
 dition consolacion & gubernacion p totum  
 idem

Slander.

idem tempus ab omni genere sortilegi  
 inchantamenti sive cuiusvis Artis magice  
 voc Witchcraft & ab omni huiusmodi  
 delicto seu quocunque alio Scandalo  
 quacunque Suspitione earundem ma-  
 larum immaculata reputabatur ac  
 tam suam Deo quotidie a toto p[re]d[ic]to  
 poze nativitate sue incolentem Legib[us]  
 huius regni Anglie obedientem age[n]t[em]  
 quoq[ue] p[re]textu eadem A. non solum an-  
 rem favorem & benevolenc[iam] quamplur[imam]  
 fide dign[am] dicit[ur] Dom[us] Regine fidel[is] sub-  
 verumeciam quamplur[imam] grandia lu-  
 pficua & advantagia de Vicinis suis  
 al[ia] dicit[ur] D[omi]ne Regine fidel[is] subdie cum  
 bus eadem A. de tempore in tempus  
 promittere consuevit in ipsius A. vice  
 & totius familie sue legitimam man-  
 tenzonem adept[us] fuit habuerit & lucr-  
 cerit p[re]d[ic]to tamen C. p[re]miss[is] non igno-  
 instigatione diabolica seductus omni  
 ritae & honestae relinque[n]do invidiose  
 chinans p[re]d[ic]to A. de huiusmodi suis  
 nis nomine fama credentia conversa  
 & gubernatorem p[re]d[ic]to quibus ut p[re]f-  
 imbue fuerit dep[re]hendere & denudare  
 sam A. In tam mala nomen famam  
 nionem & inestimacionem omnium  
 uo[rum] suorum aliorumq[ue] fidel[is] dicit[ur] Dom[us]  
 gine nunc subdie inferre & in sortilegi-  
 & amissionem omnium bonorum & Catall-  
 viteq[ue] sue extremum periculum indu-  
 (tali die & anno) apud (Ec.) in  
 p[re]d[ic]to in p[re]sentia quamplur[imam] fidel[is]  
 Dom[us] Regine nunc subdie adtunc &  
 dem p[re]sent[em] hec falsa ficta scandalosa

probat[ur]



## Of Declarations.

35

Slander.

probiosa Anglican verba sequen de pze  
 A. adtunc & ibid dixit retulit & ppa  
 bidit videlicet A. B. (pze A. modo quer  
 innuend) is a Whore and a Witch, and  
 hath bewitched my Cattel averia ipsius  
 C. modo defend innuend) Quorum qui  
 dem falloz & scandaloso4 verbo4 dictio  
 nis & locution ptextu pze A. non solu  
 in magnam Infamiam & Scandalu apud  
 omnes Vicinos suos aliosq; fidel & fide  
 digni dix' Dñe Regine nunc subdie in  
 curret & incidit verumetiam quamplur  
 ingent denarioz summas p hujusmodi  
 crimini & accusaton pgando & eva  
 gando Et p exoneratione sua in hac  
 parte habens exponere & erogare coact  
 Unde dic qd deteriorat est & dampn  
 et ad valenc Centu Libraru Et inde  
 due sextam, &c.

The better Opinion is, That this Action  
 will not lie for saying one is a Witch, with  
 out the Addition of some other words im  
 porting that she hath bewitched some Per  
 son or his Goods, &c. *Vide Finch* 126. 2 Cro.  
 99, 306, 205, 236, 233, 531, 660. 1 Cro.  
 100. *Godb.* 435, 257, 341. *Bendl.* 23, 127.  
*Stiles* 11, 47. *Hob.* 137, 162, 155.

It's said, That the Plaintiff need not to  
 aver that any Person is dead, or how she  
 bewitch, &c. 2 Cro. 639. *Stiles* 106.  
 Cro. 101. *March* 93.

But 't's said it will not lie for calling one  
 a Sorcerer, Inchanter, Conjuror, Hag, Con  
 juring Knave, and the like, 13 Co. 59.  
*Brownl.* 276.

D 2

But

74.

Yet if any special Damage happen to the Party by speaking these Words, I thought the Action will lie, 2 Cro. 202.

See Presidents, *Hern* 112, 222. *Hansf.* 2  
*Cl. Man.* 163. *Cl. Aff.* 196. *Clif.* 106, 10  
108, &c.

**Case for  
charging  
the Plain-  
tiff of a  
Rape.**

**N. J.** **N.** attach fuit ad respondendū  
**J. H.** de placito transgīt sup **Castro**  
 Et unde idem **N.** p **M. B.** Altorū  
 queritur quare cum idem **N.** bonus  
 rus castus & honestus ligeus Dñe Regi  
 nunc sit & a tempore nativitatis sue  
 usq̃ fuit ac ut pius verus castus im  
 rube & immaculat absq̃ aliquo fede  
 castie sive levis vite crimine vel suspit  
 eozundem penitus intact' immaculat  
 munis & liber p totū tempus sup  
 vitam suam degit & continuabit q  
 p̃textu idem **N.** magnum favorem &  
 volentiam diversarū Personarū sibi  
 immerito conciliabit p̃dict' tamen **J.**  
 misse4 non ignara felicitati &  
 Statui ipsius **N.** magnopere invidet  
 machinans ipsum **N.** non solum in  
 nomine & fama suis totaliter denig  
 & peiorare verū etiam in piculū vit  
 amissionis inducere p̃mo die Maij  
 regni Dñe Regine nunc secundo ap  
 quedam verba falsa & scandalosa d

Item A. & eidem A. in pſentia & auditu  
 amplius ſubdie & ligeoꝝ dia' Dom  
 Regine palam & publice dixit publicavit  
 & pꝑalavit in his Anglicanis verbis ſe-  
 quentibus videlicet thou (eundem quer innu-  
 endo) didſt raviſh M. W. (filiam J. W.  
 & S. pꝛes innuendo) againſt her Will  
 contra voluntate ipsius M. W. innu-  
 endo) and deſerveſt to be Hanged for it  
 quoz quidem verboꝝ falſoꝝ & ſcanda-  
 loſoꝝ dictonis & publicaſion pꝛextu idem  
 A. non ſolum in bonis nomine & fama  
 ſuis graviter leſus eſt verū etiam in di-  
 verſis negotiis ſuis licitis & honeſtis  
 agend multipliciter deteriorare exiſtit ad  
 dampnum ipsius A. ducens Libꝛard Et  
 inde pꝑducit ſectam, &c.

*Note,* To charge a Man with this Offence  
 of a Rape, or any thing like unto it, may  
 be Actionable, as to ſay, He ſhould have  
 been hang'd for a Rape, and it coſt him  
 dear; or this, Thou didſt raviſh J. S. or  
 thus, He is raviſhing J. S. or thus, Thou  
 haſt raviſh'd a Woman twice, and I will  
 make thee ſtand in a white Sheet for it,  
 1 Cro. 589, 101. Godb. 287.

See for Presidents, 2 Bro. 19. Hanſ. 57.  
*Vide* President de Adulterio, 2 Bro. 18.



Slander.

Sodomy and Buggery.

Case for  
charging  
Plaintiff  
with Sodo-  
my and  
Buggery.

ff. **A.** B. nup D. (Ec.) attach fuit ab  
respondend C. D. Clerico de  
plito (Ec.) Et unde (Ec.) quare cum  
idem C. bonus verus castus & fidelis li-  
geus Dñe Regine nunc existit & tanquā  
bonus verus castus & fidelis ligeus dñi  
Dñe Regine nunc & pgenitorum suorum  
nup Regum Anglie a tempore nativitate  
sue hucusq; se gessit habuit & gubernatione  
honorumq; nois fame conditionis conver-  
sationis gesture viteq; honeste & caste tam  
apud omnes Vicinos suos quam al  
deleg subdie dñi Dom Regine cum quib  
bus idem C. habitus notus dictus & re-  
putatus fuit ac de quocunq; genere in  
continentie Sodomie (Anglice Buggery)  
vel alicujus humodi nocivi criminis vel  
suspitione eorundem insuspect' illesus &  
intact' p totum tempus pzed remansit &  
continuabit quorum ptextu idem C. non  
solum amorem & favorem omnium Vicinorum  
suorum & al dñi Dom Regine sed  
vel subdie quorumcunq; sibi non iname-  
rito obtinuit ac p spatium quatuor An-  
noꝝ jam ule elaps & amplius fuit Clericus  
in Sacris Ordinibus & Beneficiat' cum  
Rectoria de F. in Com pzed pzed tamen  
N. pmissor' non ignarus ex sua mera &  
nequissima malitia phabita machinans  
& malitiose intendens eundem C. non  
solum in bonis nomine fama credentia  
statu & reputatione suis pdia quibus  
antea fuerat intact' ledere detrachere scari

Dallizari

Slander.

malizare pejorare & totaliter denigrare  
 verum etiam ipsum C. in malam opini-  
 onem & reputacionem tam omnium Vici-  
 norum suorum quam aliorum Dñe Regine fi-  
 deris subditorum ac vite ipsius C. ac om-  
 nium & singulorum Bonorum Catallo-  
 rum & Tenentorum suorum & Beneficij  
 sui predicti amissionem & forisfacturum periculum  
 inducere & inferre (die, &c. anno, &c.)  
 apud f. predictam falso & malitiose in pre-  
 sentia & auditu quamplurium dicti Dñe Re-  
 gine nunc subditie crimen Sodomitie (An-  
 glisce Buggery) eidem C. nequissime im-  
 posuit & objecit de eo videlicet quod pre-  
 dictus C. cum quadam Iuvenca crimen  
 Sodomitie commisit & perpetravit predictusque  
 A. ipsum C. totaliter defamare subver-  
 tere & destruere intendens ex ulterio-  
 ri nequissima malitia sua ad Genitalem Ses-  
 sionem Pacis tene per adjournamentum apud  
 A. super C. in Com predicta die Mercurij  
 ultimo die Maij Anno (&c.) coram  
 R. M. R. P. O. R. P. R. R. Justic  
 dicti Dñe Regine ad Pacem in Com pre-  
 dicta conservandam necnon ad diversa felo-  
 nia transgredi & alia malefacta in eodem Com  
 perpetrare audiendū & terminandū assigna-  
 vandam Billam Indictamene in par-  
 tamento ingrossari falso & malitiose cau-  
 savit de eo quod idem C. decimo septimo  
 die Maij Anno regni Domini Anne Dei  
 Gratia Angli Scoti Franci & Hibernie Re-  
 gine fidei Defens, &c. primo Deum pre-  
 oculis suis non habens sed instigatione dia-  
 bolica seductus apud f. in Com predicta in  
 & super Iuvencam ipsius C. in quodam

Indictment

Slander.

loco ibm (vocat le Church-yard) adtrunc  
 & ibm existend & invene felonice By  
 chiis suis amplectabit (Anglice did in  
 brace) & cum pdicta Juvencia adtrunc  
 ibidem sceleratissime felonice & contra  
 naturalem ordinem rem huit veneremur  
 in eadem bestia & peccat ill detestabili  
 horribile & Sodomiticum (Anglice vocat  
 Buggery) adtrunc & ibm nequiter & felo  
 nice & diabolice commisit & ppetravit  
 contra Pacem Domini Regine & contra  
 formam Statute in hujusmodi casu editi  
 & pdis quam quidem Billam Indicta  
 menti sic ingrossat pdicta N. ad presen  
 tationem Sessionem Pacis apud N. p  
 Juratoribus Magne Inquisitionis p  
 ad eandem Generalem Sessionem Pacis  
 coram Justiciis ptes ad inquirend p di  
 Domini Regina ibm impanellat & omnia  
 jurat falso & malitiose exhuit pdictus  
 licet ipse satis scribit omnia & singula p  
 missa in dicta Billam Indictamenti con  
 tene fuisse falsa ficta & veritati contraria  
 adtrunc & ibm sup sacrum suum falso ma  
 litiose nequissime & scandalose ptes Ju  
 ratoribus magne Inquisitionis asserunt  
 & affirmabit materiam in dicta Billam  
 Indictamenti ut pfecte contene fore ve  
 ram ubi revera materia ptes contra ip  
 sum C. in Billam ptes contene suptr  
 specificat fuit falsa & veritati contraria  
 & p ptes N. falso nequissime & malitiose  
 devisat ea intencione ad molestand defen  
 mand & ad vitam ipsius C. sub colore  
 Justicie tollend & extinguend ac Bona  
 Catalla Terras & Cetera ipsius C.

fogie



aditum  
ce de  
did in  
drune  
e contra  
eneream  
testabili  
ce voca  
r & fel  
petratu  
e contra  
salu ed  
Indica  
pres  
N. pro  
nis pro  
m Pac  
s p di  
onae  
iculus  
gula p  
enti co  
ontrari  
falso m  
ptae J  
asseru  
ta Bill  
e fore  
ontrari  
e sup  
ontrari  
malitio  
and def  
ub colo  
Bona  
is C. 1  
fois

Inductur inducendi ac postquam predicta  
N. dedisset Evidentiam ut pferat super  
Billam Indictamenti predictae prefate Ju-  
ratoribus magne Inquisitionis predictae  
idem Juratores adtunc & ibi scilicet ad  
Sessionem Pacis apud N. predictam  
prefate Justicie responsum suum dederunt  
quod ipsi de materia in dicta Billam ut pmit-  
titur contine fuerunt penitus ignorantes  
Quorum preteritu idem C. non solum in  
bonis noie fama credentia statu & repu-  
tatione suis quibus pantea fuit intacte  
graviter lesus est verum etiam idem C.  
diversas denariorum summas in & circa  
purgationem in premissis expendere &  
erogare coactus & compulsus fuit Ac in  
diversis negotiis suis licitis & honestis  
pagendi multiplicitate impedit & deteriorae  
fuit & existit ad dampnum ipsius C.  
mille Librarum. Et inde producit le-  
dam, &c.

Note, Sodomy and Buggery is very pe-  
nal by the Law, as loss of Life, &c.

Therefore to charge a Man with this,  
or any thing like unto it, may be Action-  
able.

As for calling one Sodomite or Bugger-  
er, or for saying one hath committed So-  
domy or Buggery, Vide 12 Co. 37. &c.

See Presidents, 2 Bro. 21.

## House-burning.

Cafe for  
words,  
charging  
the Plain-  
tiff to have  
burnt his  
Barn.

**R.** S. querit? de W. B. in Cus-  
p. Marr, &c. pro eo videlicet quod cum  
predice R. bonus verus fidelis & honestus  
subditus Domini Regine nunc existit &  
bonus verus fidelis & honestus subditus  
Domini Regine nunc ac diversorum pro-  
nitorum suorum nuper regum Anglie  
tempore natiuitatis sue hucusque se gesserit  
huerit & gubernabit honorumque no-  
fame consolationis honestatis & gestur  
apud omnes Vicinos suos & nonnullos  
honorabiles & venerabiles Viros & alios  
subditos dice Domine Regine per totum tem-  
pus supradictum hitus deus nuncupatus  
reputatus fuerit ac de quocunque genere  
furti vel suspitione eorumdem vel eorum  
alicujus insuspecti immaculatusque per  
eum vite sue tempus supradictum hucusque  
remanferit & continuabit pretextu cuius  
idem R. vitam honestam cum favore  
estimatione Vicinorum suorum & aliorum  
subditorum fide dignorum dice Domine Re-  
gine nunc & progenitorum suorum predi-  
ctorum degerit & vixerit Cumque etiam  
quoddam horum predice W. B. frumen-  
to impleto existens apud R. in Com. p.  
dice die (&c.) anno (&c.) felonice combus-  
tus & penitus igne incensus fuit predi-  
tamen W. premissorum non ignarus  
quie & diabolice machinans & intendens  
dice R. non solum de bonis nomine famam  
credens & estimatione suis predice de-  
ba

vere verumetiam ipsum R. in scandalu  
 ignominiam & opprobrium publica & fo-  
 ratur omnium Bonorum & Catalloz  
 Terrarū & Tenementozū viteq;  
 amissionis piculū inferre & inducere  
 (Ec.) anno (Ec.) apud R. predice in  
 predice in presentia & auditu diver-  
 subditozū Dñe Regine nunc adruñc  
 plentid malitiose dixit intulit p-  
 palabit & publicabit de eodem R. S. hec  
 falsa ficta malitiosa & defamatoziosa  
 Anglicana verba sequendū videlicet, That  
 Master R. S. (dictum R. S. modo quer-  
 innuendo) did burn my Barn (hozeum  
 W. B. modo defend frumento imple-  
 crissid innuendo) with his own hands  
 manus prope predice R. S. modo quer-  
 innuendo) Quozum quidem fal-  
 & scandalosozum verborum dizonis  
 opalazonis pretextu idem R. S. non  
 de bonis noīe fama credentia &  
 estate suis predice magnopere lesus  
 est verumetiam Vicini sui  
 alii fideles subdic dice Dñe Regine a  
 portio ipsius R. ea orōne seiplos pe-  
 Dñe R. S. subtrahunt & cum ipso prout soliti  
 aliqualic intromittere seu comercid  
 diffidunt & desistunt ad dampnum  
 frumentis R. ducentarū Librarum. Et inde  
 Tom p. due sextam, &c.

Note, To say to or of any Man, Thou  
 didst burn a Dwelling-house, or thou didst  
 burn a Barn with Corn, is actionable; but  
 said not to be actionable for saying,  
 Thou didst burn a Barn, nor may the  
 Plaintiff



Slander.

Plaintiff inforce it in the Declaration  
 an *innuendo* a Barn full of Corn, *Hob. 19*  
*332, 350. 4 Co. 14. 20. 1 Bulst. 112. 20.*  
*21. Vide Noy's Rep. 155. Hutt. 122. 3 B.*  
*267. Cro. 834.*

But here the Plaintiff shews that the  
 Defendant's Barn was full of Corn, and  
 feloniously burnt, and that the Defenda  
 spoke the words of the Plaintiff, &c.

See Presidents, *Co. Ent. 25.*

## Words of Theft.

*Pro verbis*  
*de furto,*  
*Horfe-*  
*stealing.*

*It. A. B. nuper de (sc.) attach fuit*  
*respond C. D. de plito trans*  
*super casum & unde (sc.) quare*  
*idem C. bonus verus & fidel sub*  
*Dñe Regine nunc existit & bonus ver*  
*& fidel subdie dice Dñe Regine nunc*  
*diberforz Progenituz suoz nuper*  
*gd Anglie a tempore nativitat sue*  
*usq se gesserit huc & gubernabit bo*  
*rumq nois fame gesture condiconis*  
*converlaconis honeste apud bonos*  
*graves homines tam suos Vicinos qu*  
*alios fideles subditos dice Dñe Reg*  
*quibus idem C. satis notus fuit ac*  
*quibus idem C. consortiū huit per to*  
*tempus pcedice hic noe dice & repu*  
*fuit & absq ulla falsitatis furti latro*  
*nii deceptonis sive alterius culpe aut*  
*ribi criminis macula aut aliqua su*  
*zone eozundm hucusq illesus intact*  
*imaculat remansit & continuaverit q*  
*rd quidem bonoz nois fame gest*  
*pre*

## Of Declarations.

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Slander.

pretextu idem C. magnū favorem amo-  
 rem & benevolentiam Vicinorū suorū &  
 aliorū subditorū dice Dñe Regine nunc si-  
 bi non inmerito conciliavit & adepe fuit pō-  
 tamen A. p̄missorum non ignarus ma-  
 chinans & malitiose intendens eundem  
 C. non solum in scandalū perturbatōnem  
 veratōnem & infamiam apud Vicinos  
 suos & al fideles subdie dice Dñe Regine  
 nunc inducere verū etiam in vite sue  
 amissionis periculū manifeste inferre die  
 (Ec.) anno (Ec.) quedam falsa & scan-  
 dalosa verba ac mendacia apud A. in  
 p̄sentia & auditu quamplur fidelū sub-  
 die dice Dñe Regine nunc eidem C. &  
 de eodem C. palam & publice dixit retulit  
 p̄palabit & publicabit in his Anglica-  
 nis verbis sequē videlt Thou (eundem  
 C. innuendo) art a Thief, and thou (eun-  
 dem C. iterū innuendo) didst steal Horses  
 and carry them to N. to be sold (Villam in  
 bonū p̄dicere A. innuendo) Quorum qui-  
 dem fallorū scandalosorū & opprobriosorū  
 Anglicanorū verboꝝ dictonis & p̄palato-  
 nis pretextu idem C. non solum in bonis  
 nomine fama & estimatōne suis graviter  
 lesus & deteriorat̄ existit verum etiam di-  
 versi subdie Dñe Regine ea orōne a con-  
 sortio ipsius C. seiplos penitus subtra-  
 hunt ac cum ipso C. quoq; modo consortiū  
 here magis magisq; indies recusant ad  
 dampnum ipsius C. quinquagine Libra-  
 rum. Et inde producit sectam, &c.

Note,

Slander.



*Note*, This Action will lie as well Words concerning Petit Larceny (which is the Felonious taking of any thing under the Value of 12 *d.*) as for Words sounding in Larceny (which is the stealing of any thing above 12 *d.*) the greater Larceny touching a Man's Life and all his Estate, the less all his Goods, and Corporal Punishment, Whipping, &c.

It is said this Action will lie,

Sacrilege.

1. For charging a Man with Sacrilege or Church-robbing, 1 *Cro.* 301. 2 *Cro.* 154. *Vide* March of Slander, 1 Part. 48.

Piracy.

2. So to say, one is a Pirate, or maintainer or procurer of Pirates, 2 *Cro.* 62. 4 *Co.* 14.

Sheep-stealing, &amp;c.

3. So to call one Thief, Robber, House-robber, Sheep-stealer, Horse-stealer, or to charge them to have done such like Offence, 1 *Cro.* 329. *Dyer* 112, 236. *Owen* 334. 3 *Bulst.* 265, 303. *Noy* 10, 20.

Roguish Thief, Cunning Thief, &amp;c.

4. So for calling one Welch Thief, or Roguish Knave and Thief; so for calling one Cunning Thief, 1 *Cro.* 329. 2 *Bulst.* 134. 1 *Bulst.* 146, 220. Yet it's said hardly to lie where the words are *Adjective*, as Roguish Thievish, &c. as Thievish Knave, Roguish Knave, Thievish Whore, &c. 1 *Bulst.* 134. 138. 2 *Cro.* 514.

Felonious on the Highway.

5. So for charging one to have committed any Robbery upon the Highway, 1 *Cro.* 102.



## Of Declarations.

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But it's said not to lie where the words Slanders.  
 import no certain charge of Felony ; See ~  
*March 91. 1 Cro. 459. 1 Bulst. 112. Goldsb.*

*143. Hob. Pl. 268. 2 Cro. 315.*

6. So a Son may have an Action for Words to a  
 words spoke to his Father, as, I will take Father of  
 my Oath that your Son stole my Hens, his Son.  
 with an Averment, That the Plaintiff was  
 his only Son, or some like Averment to  
 make the Person intended certain, *Stile's*  
*Rep. 46. Goldsb. 85.*

7. So for saying to the Son, Thy Father Words to  
 is a Thief, and hath stolen more Goods the Son of  
 than I am worth, without any Averment, his Father.  
 of what he was worth that spoke the words,  
*2 Bulst. 141.*

8. So for this, Thy Husband hath stoln To a Wife  
 such and such Goods, *1 Cro. 127. 2 Cro.* of her Hus-  
*band.*

9. So for slandering a Man with stealing Stealing  
 Corn, Apples, Woods, Trees, Tiles, Corn, Ap-  
 Lead, and the like ; and if the charge in the ples, Trees,  
 words be of such a Theft, as if true, may Woods, &c.  
 bring a Man in peril of his Life, or Mem-  
 ber of his Body ; as where it doth charge  
 him with the stealing of any of these things,  
 severed from that to which it is annexed,  
 such words will be actionable. Otherwise  
 to cut and take away standing Corn, or  
 standing Trees, Wood, Furze, &c. or Ap-  
 ples from the Trees, is not Felony, or o-  
 ther great Crime.

10. The Opinions also are different a- Qualifica-  
 bout qualifying the former words by sub- tion of  
 sequent (the words **and** or **for** coming be- Words.  
 twixt) as, Thou art a Thief, **and** hast stoln  
 my

Slander. my Apples out of my Orchard ; or, Thou art a Thief, for thou hast stoln my Apples out of my Orchard ; some hold that the word **and** is an Addition to the Slander, and that the word, **for** will only explain and qualifie ; other

*2 Bul. 141.* That it shall be alike in both Cases, *Sendl. 137.* *Hob. 77, 98, 191, 106, 381, 404, 411* *1 Bulst. 143.* *Bendl. 137.* *Goldsb. 39, 114.* *Noy 135.* *March 211, 280.*

Receiver of Thieves and stoln Goods. 11. This Action it's said will not lie to charge one to keep or receive Thieves or stoln Goods ; but to say a Man is Maintainer of Traitors or Thieves, will lie, especially if they charge the Plaintiff to maintain, receive or conceal such knowingly, *Vide 1 Co. 171, 188, 189, 487, 746, 888.* *Goldsb. 48, 138.* *2 Co. 313.* *3 Bulst. 167.* *Yelv. 154.*

12. The Action will lie by way of Interrogation, *2 Cro. 569.* *12 Co. 134.*

Also for saying I charge thee with Felony, &c. *Stiles 235.* Thou wast in Gaol for stealing the Bishops Beasts, *Goldsb. 118.* *Hob. 196.*

So for words uttered by way of Opinion, Dream, Threat, or the like, *Goldsb. 118.* *March 58.*

*1 Cro. 857.* Also note, This Action will lie for charging a Man Thief, unless something of qualification be coupled to prove the thing charged to be no Felony.

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See Presidents of words for Theft; 2 Bro. Slander.

Rob. Entr. 70. Hansf. 16, 27, 28. Bro.

46. 2 Mo. Intr. 22. Tho. 72. Cl. Ass.

Reads Dec. 103, 116, 136.

Under by calling a Man Thief, carry-  
ing him before a Justice upon Suspi-  
cion, where he was forc'd to give  
Bail for Appearance at the next Ses-  
sions, and there was acquitted by  
Proclamation.

**R**. queritur de L. P. in custod  
Mar. &c. pro videlicet quod cum  
H. honoris nois & fame ac honesta-  
conversacionis gesture & condiconis  
Et ut verus ligeus dic' Dñe Re-  
absq' ullo scandalo ac sine quacuncq'  
cula latrocinij furti falsitatis vel cu-  
is alij Criminis ac sine ullo Scan-  
earundem maculari & ab omnibus  
ulmodi fallaciis dolis & malis illesus  
acutus & immaculatus a tempore na-  
tatis sue hucusq' se gesserit habuerit  
gubernabit & hujusmodi stae conversa-  
is & honestatis apud Vicinos suos &  
versos fideles Dñe Regine nunc sub-  
quibus idem H. cognie erat sine qua-  
q' criminosa nequitia latrocinij furti  
cujusvis insignis fraudis aut alicujus  
ulmodi Criminis hucusq' immaculae  
supae fuerit p'ed tamen L. p'missorū  
ignar' ex ejus diabolica instigazione  
p'versa malitia machinans statum ho-  
nestae



Slander. my Apples out of my Orchard ; or, Thou art a Thief, for thou hast stoln my Apples out of my Orchard ; some hold that the word **and** is an Addition to the Slander, and that the word, **for** will only explain and qualifie ; other

*2 Bul. 141.* That it shall be alike in both Cases, *Sendl. 137. Hob. 77, 98, 191, 106, 381, 404, 411 Bulst. 143. Sendl. 137. Goldsb. 39, 114. Noy 135. March 211, 280.*

Receiver of Thieves and stoln Goods. 11. This Action it's said will not lie to charge one to keep or receive Thieves or stoln Goods ; but to say a Man is Maintainer of Traitors or Thieves, will lie, especially if they charge the Plaintiff to maintain, receive or conceal such knowingly, *Vide 1 Co. 171, 188, 189, 487, 746, 888. Goldsb. 48, 138. 2 Co. 333 Bulst. 167. Yelv. 154.*

12. The Action will lie by way of Interrogation, *2 Cro. 569. 12 Co. 134.*

Also for saying I charge thee with Felony, &c. *Stiles 235.* Thou wast in Gaol for stealing the Bishops Beasts, *Goldsb. 196. Hob. 196.*

So for words uttered by way of Opinion, Dream, Threat, or the like, *Goldsb. 196. March 58.*

*1 Cro. 857.* Also note, This Action will lie for charging a Man Thief, unless something of qualification be coupled to prove the charge charged to be no Felony.

## Of Declarations.

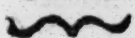
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See Presidents of words for Theft, 2 Bro. Slander.  
*Rob. Entr. 70. Hansf. 16, 27, 28. Bro. 46. 2 Mo. Intr. 22. Tho. 72. Cl. Aff. 103. Reads Dec. 103, 116, 136.*

Slander by calling a Man Thief, carry-  
 ing him before a Justice upon Suspi-  
 cion, where he was forc'd to give  
 Bail for Appearance at the next Ses-  
 sions, and there was acquitted by  
 Proclamation.

**R.** *S. queritur de L. P. in custodi*  
*Mar. &c. pro videtur quod cum*  
*et honoris et fame ac honesta-*  
*conversacionis gesture et condicionis*  
*Et ut verus ligeus dicat Dñe Re-*  
*absq; ullo scandalo ac sine quacumq;*  
*cula latrocinij furti falsitatis vel cu-*  
*alij Criminis ac sine ullo Scan-*  
*earundem maculari et ab omnibus*  
*hujusmodi fallaciis dolis et malis illesus*  
*et immaculatus a tempore na-*  
*tatis sue hucusq; se gesserit habuerit*  
*gubernabit et hujusmodi sue conversa-*  
*et honestatis apud Vicinos suos et*  
*versos fideles Dñe Regine nunc sub-*  
*quibus idem R. cognie erat sine qua-*  
*et criminosa nequitia latrocinij furti*  
*hujusmodi insignis fraudis aut alicujus*  
*hujusmodi Criminis hucusq; immaculae*  
*apae fuerit p̄ter tamen L. p̄missorū*  
*ignar⁹ ex ejus diabolica instigazione*  
*versa malitia machinans statum ho-*  
E
nestat

Slander.



Plaintiff  
charged as  
a Thief, and  
Receiver.

And pro-  
cured to be  
Arrested on  
suspicion of  
Felony.

Commit-  
ment to  
Goal.

nestae necnon famam & opinionem dic-  
ti R. ledere & funditus depravare ac eun-  
dem R. de tam malis conslatoe condi-  
tione & gestur apud omnes fideles Dic-  
te Regine subdie acceptare ut idem R. om-  
nino periret & totaliter destrueret ac ut  
universi fideles subdie dicte Dne Regine  
a consortio ipsius R. penitus se subtra-  
herent primo die Septembrys Anno se-  
cundo (Rc) apud L. (Rc.) in p'sentia  
audientia M. B. & alioꝝ multoꝝ fide-  
ligoꝝ dicte Dne Regine eidem R. noto-  
toꝝ de eodem R. dixit retulit publi-  
cavit & alta voce p'nunciavit hec verba  
in Anglicis verbis sequene videlt, Thou  
art a Thief, and thou hast received Twen-  
ty Pounds worth of my Goods Quorum  
quidem p'palaconis & relaconis p'ter-  
p'ed R. non solum de suo statu bono me-  
mine & in negotiis suis quibus cum ho-  
nestis p'sonis & dicte Dom Regine subdi-  
c'us fuit & consortium huerit multiplici-  
telus & deterioꝝ existit Verum etiam  
idem R. octone p'palaconis dictoꝝ be-  
hoꝝ & p'puraconem p'ed L. p' mandae  
D. M. Wil Major Civie L. & P. &  
alioꝝ Justie dicte Dne Regine ad Pacem  
in dicte Civitate conservand necnon ad  
verla felon Transgi & alia malefacta in  
Civitate p'ed audiendi & terminandi assigna-  
die Anno & Loco supradicte p' suspicio-  
felon arrestae fuit Goale Dom Regine  
infra eandem Civitatem adtunc & ibidem  
octone sub custodi C. D. unius servicie  
dicte Dom Regine ad Clavam in eadem  
Civitate per mandae Justie p'dicte de

ter



tene fuit quousq; p̄d̄ H. invenit suffi- Slander,  
 cient manu capē ad p̄sonalē comparēdū Bail for  
 coram Majore & alijs Justic p̄d̄ Dñe appearance  
 Regine ad p̄or' General Session Pacis at next  
 dia' Dom Regine infra Civitae p̄d̄ia' ex General  
 tunc p̄r tenendū ad respondē dīte Dñe Re Sessions:  
 gine de felon p̄d̄ cuius p̄textu postea  
 ad p̄or' General Session Pacis dia' Dñe  
 Regine infra p̄d̄ Civitae tene scilicet vice-  
 simo primo die Sept̄ Anno (Fc.) coram  
 fac Majore & al Justic Dñe Regine ad  
 pacem supradia' infra Civitae H. p̄d̄  
 conserbandū necnon ad dīversā felon  
 transḡ & al malefacta in eadem Civitate  
 audīendū & terminandū assignū p̄d̄ H. com-  
 parere astrictū fuit & idem H. ad tunc & Acquittal  
 ibidem corā eisdē Justic p̄ Proclamacon by Procla-  
 mation.  
 merte put mos est factam in plena Ses-  
 sione illa dimissus acquietatus & de fe-  
 lon p̄d̄ p̄ Justic p̄d̄ deliberat fuit Unde  
 sic quod deteriorat & est dampnū het ad Damage,  
 valens 200 l. Et inde pduc̄ Sect', &c.

See for Presidents of Accusation and In-  
 dictment, &c. Rast. 12. Hern 141, 153,  
 157. Rob. Entr. 68, 75, 239, 341. Vide  
 Bro. 3, 76. Clif. 25, 27, &c. Thomp. 43,  
 55. 2 Bro. 17. Wi. Entr. 74. Han. 24, 30, 53.  
 Pl. gen. 48. 2 Mo. Intr. 100. Simile de  
 Rapru, Wi. Entr. 96. Clif. 24, 28. De  
 Conjuracione, 2 Bro. 24. 1 Brownl. 27.  
 3 Brownl. 109. Ash. 26. Indictment de  
 Perjury, Ash. 24. De intoxicatione, &c.  
 Co. Entr. 25. Vid. postea de Barretrie, Hern-  
 3, 226. 1 Bro. 18. Bro. Red. 20, 25. De

Slander. Forgerie, *Bro. Red. 22.* Pro Nufance,  
*Clif. 24, 31.*

The next Presidents are by way of  
 Conspiracy and Confederacy.

And note, That Conspiracy strictly taken, is where two or more Persons do purposely and maliciously Conspire, and endeavour together falsely, and unjustly, and without any ground at all to indict another for some Treason, Felony or other Offence; and when he which is so indicted is upon that Indictment (after a Lawful Trial) purged and acquitted; in this Case he may have Remedy by this Action, and shall recover Damages according to his Hurt, *F. N. B. 114, 115, 116. 9 Co. 56.*

And yet in all Cases where the Practice and Procurement is such by one Person (that if there were more joined with him a Writ of Conspiracy would lie) there a general Action of the Case will lie against such single Person; as if a Man do procure another to be Arrested, brought before Justices, examined or imprisoned for Felony, with contrivance to vex and disgrace him, though he be not indicted for the Felony, yet he may have an Action of the Case, in which he need not say, that he was lawfully acquitted, as he must in a Writ of Conspiracy, *9 Co. 56, 57. 4 Co. 14, 15.* therefore the Action on the Case is more frequently brought.

Slander

Slander by Conspiracy to charge the Plaintiff of Murder, by Poisoning.

**J.** P. de S. in Com p̄res Labourer & J. Hr' ejus attach fuit ad respondēd C. P. de plito quare cū ipse simul cum W. P. de, &c. & C. Hr' ejus J. S. &c. in Com p̄res Tailor, & H. Hr' ejus conspiratione in eos apud S. in Com p̄res phabie ipsum C. P. [de eo qd ipse idem C. P. & C. G. Hr' W. G. nup̄e S. in Com p̄res Weaver, secundo die (Et.) anno (Et.) vi & armis apud S. p̄res in Com p̄res Dēd p̄e oculis suis non hentes sed instigatione diabolica se-duct' ex malitiis suis progitat machinad' & intendēd C. Urorem ipsius C. P. de vita sua deprivare & eam felonice mur-derare in Potum compositum Lactis sui Anglice in her Posset-drink quoddam Ve-nenum mortiferum Anglice vocat Arse-nick felonice posuerunt & p̄res Potū com-positū sic venenatū felonice adtunc & ibm p̄res C. Hr' p̄res C. P. dederunt & mini-straverunt ad bibend' Et qd' quidam C. P. de S. p̄dia' in Com p̄dia' Appren-ticius ipsius C. adtunc & ibm existēd nihil fraudi aut doli p̄dia' Poti venenati & intoricae suspiciens adtunc & ibm p̄res Potum venenatum & intoricaum bibit & quod idem C. W. ab eodem secundo die Martij Anno, &c. supradicto usq; ad decimū quintū diem Maij extunc p̄or' sequen' languebat quo quidem decimo

The sub-  
stance of  
the Conspi-  
racy and  
Indictment  
against the  
Plaintiff.



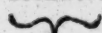
Slander.

Upon  
which he  
was indicted,  
Arrested  
and Im-  
prisoned.

And (until  
at the Ge-  
neral Ses-  
sions law-  
fully ac-  
quitted.)  
Imprisoned  
and de-  
prived.

quinto die Maij Anno supradicto idem  
T. W. de Veneno illo apud S. pdictam  
obiit quodam p[re]d T. R. & p[re]d C. S. die  
& anno supradicti apud S. p[re]d in Com  
p[re]d eundem T. W. modo & forma p[re]d  
felonice intoricasent & murtherassent con-  
tra Pacem Dñe Regine nunc Coronam  
& Dignitatem suas] coram C. M. J. p[re]d  
Militibus W. R. P. B. & P. H. p[re]d  
custodibus Pacis dicti Dñe Regine  
Justicie ipsius Dñe Regine ad disla-  
lon Transg[re]ssu & alia malefacta in partib[us]  
& Com p[re]d p[re]d p[re]d audienti & termi-  
nand assign[ati] apud General Session Pacis  
dicti Dñe Regine tunc tene apud S. p[re]d  
in Com p[re]d decimo die Octob[ris] Anno  
supradicto indictari & ipsum T. ea or[ati]o[n]e  
capi & in Goala dicti Dñe Regine  
Curri de S. p[re]d in Com p[re]d quoniam  
idem T. coram p[re]d Justicie & al locis  
suis Justicie dicti Dñe Regine ad p[re]d  
Generalem Session Pacis in Com p[re]d  
tene apud S. p[re]d in Com p[re]d secundu[m]  
Legem & Consuetudinem Regni dicti Dñe  
Regine Anglie p[re]d decimo die Octob[ris]  
Anno, &c supradicto inde acquietas  
isset imprisonari & detineri falso & mal-  
tiose p[er]curabit ad magnu[m] dampnu[m] ipsius  
T. R. vigine Thibard Et unde idem  
T. R. p[re]d C. S. Attor[um] suum querit  
qd p[re]d J. P. & J. simul cum (&c.) con-  
spiracione inter eos [&c. ut ante.]

See the next President, fol. 58.



Note, That the matter of Conspiracy must be false, and the Conspiracy malicious, which the Plaintiff must make out, the matter being the ground of this Action; for upon the Trial it doth appear that either it was forc'd in a Course of Justice, or that there was probable Cause for the Indictment, &c. no Action will lie.

Slander by Conspiracy to charge the Plaintiff of Theft.

**O.** M. Gen querit' de M. C. Spinst' M. C. R. B. R. S. & P. H. Custod' Mart, &c. de plito quare ipsi conspiratione in eos apud Stradford le Bow in Com' p'ed quinto die Julij anno Regni Dñe Anne nunc Regine Anglie, &c. primo phabie ipsium O. M. de eo qd' p'le 30 die Junij Anno primo supradicto apud S. p'ed in Com' p'ed vi & armis videst Culcellis, &c. Unum salinum Argene ad valenc' quatuor libe duas Pa- teras Argene deaurat voc' two Bowls of silver gilt ad valenc' novem librarum & unum Ciphum Argene p'cell deaurat ad valenc' quatuor librarum de Bonis & Ca- tallis p'ed M. invene felonice furat fuit cepit & asportabit contra Pacem dic' Dom' Regine nunc Coronam & Dignitae suas coram H. S. W. F. C. G. & J. H. At Justic' dic' Dñe Regine ad Pacem in p'ed Com' M. conservand' necnon ad diversa felon' transg' & al' malefacta in eodem Com' perpetrare audiend' & termi-

Slander.

nanus assignat die Anno primo  
 supradicto apud Hick's Hall in St. John  
 Street in Com pzed' indictari & ipsum O.  
 ea occasione apud Hick's Hall p'd in Com p'd  
 postea scilicet eodem die Anno primo supradic-  
 to capi & ipsum ibidem sub Custod' A. B.  
 & C. D. ad tunc Vic Com Midd' predicti  
 quousque idem O. apud deliberationem Gaule  
 Dñe Regine fact' & tene p Com Midd'  
 pzed' apud Justic Hall in le Old Bailey in  
 Paroch' Scti Sepulchri London in Warda  
 de Farringdon extra Lond' scilicet pzed'  
 die Anno primo supradicto inde secun-  
 do Regem & Consuetudinem Regni dicte  
 Dñe Regine Anglie debito modo acqui-  
 etae fuisset detineri falso & malitiose p-  
 curaver' ad dampnum ipsius O. quin-  
 gene librarum & contra formam ordina-  
 tionis in huiusmodi casu p'vis Et inde p-  
 due Sextam, &c.

*Note,* In all Cases where a Writ of Con-  
 spiracy lieth, there are six things incident  
 to the Case.

1. There must be two or more in the  
 Plot, for it will not lie against one, or a-  
 gainst a Man and his Wife who are but  
 one in Law, unless the Writ be, that they  
*simul cum aliis* did it.

2. The Party that brings it, must be  
 indicted or arraigned, for it will not lie  
 for a Plot or Preparation without an Exe-  
 cution.

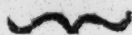
3. The Proceedings and the Prosecution  
 must be voluntary, for Officers who are  
 obliged by Oath, Jurors sworn to present,



## Of Declarations.

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Slander.



Witnesses called to testify their Knowledge of such things are justifiable.

4. It must be malicious, for if there be good ground, as when a Felony is done, and there is great Cause of suspicion by common Fame or otherwise, as upon Hue and Cry and Pursuit, the Action will not hold.

5. The Charge and Accusation must be false.

6. The Party must be *legitimo modo acquietatus*, 9 Co. 56. Bro. Conspir. 4 Fitz. Conspir. 2. 14 Co. 45, &c.

See more of Presidents for Conspiracy, East. 123, 124, 125, 126, &c. Fitz. Nat. Br. 115, 116. Co. Ent. 109. 3 Brownl. 102. Ash, 27. Hern. 262. 1 Brown. 121, 124, 125. 1 Winch. Ent. 104. Vidian 145. 1 San. 128. Bro. Red. 22.

For speaking words of poisoning touching the Plaintiff's Life, and causing an Indictment of Felony, on which the Plaintiff was tried and acquitted,

**R.** queritur de S. T. in Custod  
Harr, &c. p eo videlt quod cum  
H. bonus verus & fidel subdie  
Dne Regine nunc existit Et ut bonus  
verus & fidel subdie dice Dne Regine  
nunc & progenitorum suorum nuper Re-  
gum Anglie a tempore nativitatis sine  
macula hic dictus & reputat fuerit absque  
aliqua nota furti felonie murdrj ac a  
quobis alio genere criminis nocivi inaccu-  
satus

culae & inluspece fuerit predice tamen  
**S.** premissorum non ignarus ex sua me-  
 ra & nequissima malitia prehabe machi-  
 nam & intendem ipsum **R.** de bonis no-  
 fama & credenc suis depzibare ac ipsum  
**R.** in pdicton & forisfactur omnium  
 Bonorum & Catallorum suorum ac vici-  
 sue amission piculum inducere decimo  
 die Augusti Anno regni Dñe Anne  
 nunc Regine Angl, &c. secundo apud **D.**  
 in Com predice hec falsa & scandalosa  
 Anglicana verba eidm **R.** & de eodm **R.**  
 in pñtia & auditu quamplur fidel sub-  
 ditorum Dñe Regine nunc palam & pub-  
 lica dixit ppalabit & alta voce publica-  
 vit, viz. Thou (ipsm modo quer innuendo)  
 hast poisoned J.G. (quendam J. G. adtunc  
 defunce innuendo) and it shall cost me  
 (psum **S.** modo defend innuendo) a  
 hundred Pounds, but I (scilicet **S.** iterum  
 innuendo) will hang thee (prefae **R.** modo  
 quer innuendo) for it, pñtia **S.** ulterius  
 ex sua mera & nequissima malitia ut pre-  
 fertur pñtia postea scilicet ad tunc pro-  
 Affizas & Gaole delibaconem tene apud  
**D.** in Com pred die, &c. Anno, &c. coram  
**E. C.** Mil Capital Justie Dom Regine  
 de Banco & **J. R.** Mil un Justie ejus-  
 dem Domine Regine ad placita coram  
 ipsa Regina tenend assign adtunc  
 Justie ipsius Dom Regine ad Affizas  
 in dicto Com **D.** capiend necnon ad Ga-  
 dice Dñe Regine ejusdem Com de Pñ-  
 nar in eadem existend deliberand (inter  
 alia) assign predice **R.** **W.** falso diabolice  
 & malitiose de feloniam indicari pcurabit



causabit modo & forma sequend videlt  
 Debon ff. Jur pro Dña Regina presen-  
 ant quod R. W. de L. in Com pcedice  
 Teoman Deum pre Oculis non hens sed  
 instigatore diabolica moe & seduce septi-  
 mo die Julij Anno regni Dñe Anne Dei  
 Gratia Anglie Scotie franc & Hibnie  
 Regim Fidei Defens, &c. secundo vi &  
 armis, &c. apud D. pcedice in Com pcedi-  
 felonice voluntarie & ex malitia sua pre-  
 cogitae quandam Potionem Veneno com-  
 posie sciens Potionem illam cum Veneno  
 esse mixtam cuidam J. G. adtunc &  
 ibm dedit ea intentione qd idem J. illa  
 Potionem veneno composie adtunc ibm  
 potaret de qua quidm Potiom veneno  
 composie pcedice J. G. adtunc & ibidem bi-  
 bit & de eadem a pcedice septimo die  
 Julij Anno secundo supradicto usque  
 vicesimum diem ejuldem Mensis tunc pr-  
 sequend apud D. pcedice in Com pcedice lan-  
 guebat quo quidem vicesimo die Julij  
 Anno secundo supradicto pcedice J. G. a-  
 pud D. pcedice in Com pcedice obiit Et  
 sic pcedice R. W. pcedice J. G. apud D.  
 pcedice in Com pcedice modo & forma pre-  
 dice felonice voluntarie & ex malicia sua  
 procogitata interfecit & murtheravit contra  
 Pacem dice Dñe Regine nunc Coronam &  
 Dignitatem suas rone cujus quidem  
 Indictamenti idem R. W. postea scilicet  
 eodem die (&c.) Anno (&c.) supradicto  
 apud D. pcedice cape & arrestat fuit &  
 in Prisona ibm sub Custod M. B. Ar ad-  
 tunc Dic dice Com D. imprisonat fuit  
 Et postea scilicet ad pcedice M. B. & Gaol  
 deli-



Slander.

**W** Delibatoꝝ tene apud D. pꝛdice pꝛdicta  
die, &c. Anno (&c.) supꝛadice coꝝa Iusticie  
ad Affzas & Gaol delibatoꝝ pꝛdice su  
per Indictamene pꝛdice Arrainae fuit  
Et inde de bono & malo posuit se super  
pꝛiam & de feloniam ille adtunc & ibidem  
legitimo modo triar [& acquietar] fuit  
set quozum quidem omnium pꝛmissozum  
pꝛtextu idem R. non solum in magnum  
Scandalum Ignominiam & Opprobrium  
incidit, ac in credentia sua magnopere  
lesus & diffamatus existit necnon in bonis  
& rebus suis valde depaupꝛatus est verum  
etiam diversas magnas expensas & dena  
riorum Summas pꝛ deliberatione acquie  
tatione & exoneratione suis pꝛdicta de  
falso Indictamento & Scandalo pꝛdicti  
erogare & expendere coact & compulsus  
fuit ad dampnum ipsius R. quadring  
gintarum Libꝛarum. Et inde product  
Sect, &c.

See Presidents of this nature, *Asb.* 52.  
2 *Mo. Intr.* 24.

See for words of a Doctor, that he had  
killed 5 persons in *Plebotomy*.

*Note,* As is before said, the Malice is the  
Ground of the Action; but in this Action  
on the Case in the nature of a Conspiracy,  
the Plaintiff need not shew he was  
lawfully acquitted; and it is therefore  
thought better to bring this Action on the  
Case than a Writ of Conspiracy, for the  
several incidents and particulars afore  
noted.

There

There are also Slanders by Libel, Deed Slander.  
 Actions which we will treat of at the  
 end of this Title for Slander.

For Words which concern a Man in loss  
 of Member or Limb.

As for Perjury, the Forfeit whereof is  
 20 l. six Months Imprisonment, his  
 Testimony to be of no Value, and  
 (for Disability to pay the Fine) to be  
 put in the Pillory, and the Criminals  
 Ears to be nailed, 5 Eliz. c. 5, &c.  
 See the Statutes.

**A** B. Attach fuit ad respondend For words  
 C. D. de placito quare cum i. containing  
 in C. D. bonus (Ec.) & tanquam bo- Perjury.  
 nus (Ec.) bonorumq; nois (Ec.) & absq;  
 a falsitate perjurij sive alterius Cu'pe  
 nocivi Criminis macula illesus & in-  
 te per tempus pdice se gessit huit &  
 gubernabit Cumq; etiam pdice C. (tali  
 & anno) apud I. sum esset essendi co-  
 ram J. W. Qui adtunc Major Dilect I.  
 testificand & veritae dicend pro & con-  
 cernend quadam materia pendend coram  
 pfae tunc Majore ac adtunc & ibidem  
 eam pfae Majore auditui pcedice C.  
 adtunc & ibidem parae existens sup  
 sacro Dei Evangelio jurari coram pfae  
 tunc Majore pdictus tamen A. pmissio-  
 nem non ignarus ex sua mera & nequil-  
 ima malitia phita machinans noen fa-  
 mam & opinionem ipsius C. D. in tur-  
 bationem

*Slander.* **W**arionem verationem & infamiam inducere apud **I.** quedam falsa & scandalosa verba ac mendacia de prefat **C. D.** in presentia & auditu dice Majoris & quamplur ligozum dice Dne Regine dixit retulit & ppalabit in his Anglicanis verbis sequen, viz. Sir (innuendo **C. D.**) **M.** Nil ad tunc Major **Vile I.** do not give him (iplum **C. D.** innuendo) his Book for he (iterum innuendo **C. D.**) is a perjured Fellow, and that I will prove. Quorum quidem falsozum scandalosozum verborum ditionis & propalationis preterea idem **C. D.** non solum in bonis noie facti & opinione suis gravie lesus est verum etiam in diversis licitis & honestis pagentium honestis psonis cum quibus idem **C.** in emend vendens & licite barganizantea versatus fuit multipliciter deteriorae est ad dampnum ipsius **C. D.** centum librarum. Et unde, Idem **C.** per **C.** Altorum suum queritur quare cum (8) as before setting down the day and year the words were spoken) ad dampnum ipsius **C. D.** centum librarum & inde perducit sextam, &c.

See for Presidents for words relating to Perjury, *Co. Ent.* 21, 26. *Hern.* 111, 21. *2 Mo. Intr.* 18. *Rob. Ent.* 94. *Clif.* 102. *1 B.* 23, 63. *Bro. Vad.* 44. *Tho.* 47. *Plit. Gen.* 2. *Cl. Aff.* 221. *Read. Dec.* 119.



Another for calling a Man perjured  
Fellow, &c.

**N**. nuper, &c. Attach fuit ad re-  
spondend. S. P. de placito quare  
idem S. bonus verus & fidelis li-  
geus Dom. Regine nunc existit & tan-  
tam bonus verus & fidelis ligeus dice  
Dne Regine ac Progenitorum suorum  
super Regum Anglie a tempore nati-  
tatis sue hucusque se gessit & huius bono-  
rum nominis fame gesture conditionis  
conversacionis honeste tam apud bonos  
graves homines quam alios fideles sub-  
dicere Dne Regine hitus nominat deus  
reputatus fuit & absque ulla falsitate per-  
ceptionis sive alterius Culpe & no-  
bi Criminis macula illesus & intactus  
tempus p'dice se gessit habuit & guber-  
abit p'dice tamen N. premissa non igna-  
vis ex sua mera & nequissima malitia  
habita machinans nomen famam statum  
opinionem ipsius S. ledere detrahere  
prozare denigrare & penitus destruere  
sumq; S. in pturbacione veracione & infam-  
iam inducere quedam falsa & scandalo-  
sa verba & mendacia de p'fate S. apud C.  
p'fentia & audientia quamplur sub-  
dicere Dne Regine nunc dixit retulit &  
palabit in his Anglicanis verbis se-  
quenti videt, He (innuendo p'fate S.) is a  
perjured Fellow, and I will prove him  
perjured, for he hath sworn that between  
S. W. and me that he is not able to a-  
vouch.

Slander.

vouch. Quorum quidem falsozum scandalosorum verbozum dictonis propalatonis pretextu idem S. non solum in bonis nomine & fama suis lesus est verumetiam in Negotiis suis citis pagendis cum honestis Personis cum quibus idem S. in emend vendendo & licite barganizand pantea usus fuit multipliciter lesus & detiorae existit ad dampnum ipsius S. centum Librarum Et unde, (Ec. as before,) vide postea 96.

It seems that this Action will lie for saying to or of a Man, That he is perjured 4 Co. 15, 19. Owen's Rep. 62. Kitch. 17 Noy's Rep. 34.

But to say to or of a Man, That he is or was forsworn (unless it relate to some Oath he had taken in some Court of Record) Court Baron or Court Leet, in the Assizes or Quarter-Sessions the Action will scarce lie, 1 Cro. 307, 439, 57 Owen 62. See Stiles Rep. 452. Hutt. 4 Owen 13.

It's said it will lie for calling a Man perjured Beast, 2 Cro. 613.

So for calling a Man *Mainsworn*, (being a word used in the North) especially when the words are spoken in the hearing of some that know the meaning.

It is said the General Rule for this kind of Slander, is, That the Words must import a Charge of Perjury in some Judicial Proceedings, and in such a Court, or before such a Person that hath Conusance of the Cause, and judicially taken in a thing material.

trial and pertinent, for every Untruth in Answer or Evidence is not punishable, and therefore the Words not Actionable when they relate to such matters, &c. *Slander.*  
*utt. 44.*

But see, *Noy's Rep. 61. Owen's Rep. 62.* where it was held the Action did lie without saying in what Court he is perjured; thus, *viz.* He is Perjured, and I will prove him so by two Witnesses; or thus, I will prove thee perjured; so for this, I will prove thee a perjured Knave, *Yelv. 10.*

This Action will also lie where the words charge the Party with Subornation and procuring of Perjury, *1 Cro. 899, 906, 308, 4. 1 Brownl. p. 2. & 2. 49. Leon. 102. Cro. 158.* See President of Subornation of Perjury, *Thomp. 53.*

So for any such words that are false, malicious, direct and certain, *1 Cro. 169.*

*Words of Forgery.*

The Punishment of this Offence for Forgery is not easier than that of Perjury, and is much unlike it; for the Offender may for this Offence be put in the Pillory, have one of his Ears cut off, and be imprisoned a Year, *Stat. 5 Eliz. cap. 14.* And if it concerns a Freehold, or Inheritance of Lands, he loseth both his Ears; and his nostrils are to be slit and sear'd; also forfeits the Issues of his Lands, and to suffer perpetual Imprisonment during Life.

If any one therefore shall charge another



Slander.

ther with this Crime, or any thing like unto it, the Party wronged by it may have an Action on the Case for his Remedy.

See the Presidents following.

For words charging the Plaintiff with Forgery.

**R.** W. nup de (Ec.) attach fuit ad respondend J. R. (Ec.) Et unde (Ec.) queritur quod cum idem J. bonus verus & fidelis subdit Dñe Regine nup existit ac ut bonus verus & fidelis subdit Dñe Regine ac Progenitoꝝ suoz nup Regum Angl a tempore Parturitatis sue hucusq se gessit & habuit ac honorum nominis fame gestur conuersatione & reputatione apud omnes ligeos & fideles subdit Dñe Regine quibus idem J. cognie habitus dictus & reputat fuit absq ullo Crimine sive macula falsitatis contrafectionis sive fabricationis alicujus acquietancie sive scripti aut alicujus alii nocivi Criminis macula p totum tempus supradict' illesus intactus immaculatus remansit pꝛedict' tamen R. pmissor non ignarus machinam pꝛedict' J. de hujusmodi bonis nomine fama credentia estimatione suis totaliter deprivare ac in malum nomen famam & opinionem omnium ligeorum dict' Dñe Regine nup subdit quibus idem J. notus fuit in ferre, [and if the words concern Freehold, &c. ipsam queri in piculo fore facili

# Of Declarations.

67

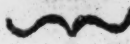
Slander.

facti omnium Bonorum & Catallorum suorum  
& pfectuorum Terrarum & Tenementorum suorum  
neque non perpetua imprisonment eorum  
potius sui inducere, ] Et. (tali die & anno)  
apud B. palam & publice in presentia &  
audientia quamplurimorum Domini Regine  
nunc subdixit dixit publicabit & pronuncia-  
bit de eodem J. hec verba Anglicana se-  
quens (videlicet) You (ipsum J. innuendo)  
did forge the Acquittance that is in que-  
stion betwixt M. C. and N. G. (innuendo  
quandam acquietantiam factam p pfac-  
torem C. p dicitur N. G. & p dicitur N. p litae  
in Curia dicitur Domini Regine eorum ipsa  
Domini Regina apud Westm in Comu Midd-  
sex in Barri cujusdam actionis super demand  
quingaginta Librarum nomine ipsius  
J. C. dependens in Curia p res versus ip-  
sum N. G.) quorum quidem librorum fal-  
sorum dictorum & ppalationis ptextu idem  
J. non solum in bonis nomine fama cre-  
denda & estimatio suis graviter lesus est  
verumetiam fidelis subdixit Domini Re-  
gine cum eodem J. aliquantulum intromit-  
tere sibi communicationem here put sole-  
bant & usi fuerit omnino recusaverit & a con-  
sortio ipsius J. octone ppalationis & pub-  
licationis p dicitur scandalosorum librorum seip-  
sos indies magis magisque subtrahunt Ac-  
etiam idem J. de bonis & rebus suis p  
purgand seipsum de hujusmodi falso cri-  
mine & accusatione magnopere deterio-  
ratur & pejoratur existit ad dampnum ipsius  
J. ducens Librarum Et inde producit  
Bexam, &c.

§ 2

This

Slander.

 This Action therefore will lie, for saying of a Man, That he hath forged a Lease, Obligation, Release, Acquittance, Feoffment or other Deed.

So for saying, Thou hast forged a Deed, or thou art a Forger of false Deeds; or for this, Thou art a Forger of false Writings; so for this, Thou art a Forger of Writings, *Owen's Rep.* 47. *1 Cro.* 553, 554, 607. *Dyer* 285.

But for words that sound adjectively, as Forging Knave, or the like, this Action will scarcely lie, *Poph.* 177. Nor for telling a Man he hath made a false Bond or false Deed, or where the Sense of the words are uncertain, *Hobb. Pl.* 8. 48.

Yet to say a Man hath forged a Record of a Court, a Recognizance, a counterfeit Warrant upon a Writ, a Commission under the Privy Seal, a License out of some Court, a Writ of *Quare Impedit*, or other Her Majesties Writ, &c. the Action will lie, *1 Cro.* 883, 237, 178. *Yelv.* 146. *2 Cro.* 648. *2 Bul.* 136.

This Action will also lie for charging a Man with Bribery, Barretry, Champerty, Extortion, and maintaining of Suits; all which are punishable by the Common and Statute Laws of this Realm, but come not under the Penalty of loss of Member or Limb, but of Liberty and Estate.

See Presidents relating to Forgery, *Thomp.* 48, 53. *Bro. Red.* 22, 72. *2 Mo. Intr.* 60. *1 Bro.* 65, 79. *Pl. Gen. & Spec.* 25, 32, 35.

(3.) The



Slander.

(3.) The third and next general Head of scandalous Words are of such as touch a Man in his Liberty, and were they true, would bring sharp Punishment or Imprisonment on him.

But we shall not enlarge this Head with Particulars, being it will be found mixt with others, as in most of the Presidents which are before, tending to Imprisonment, and in such others as tend to bring a Man under penal Statutes; as,

Bribery. See Presidents, *Placit. Gen.* 30.

*Tho.* 53. 3 *Brownl.* 113. *Hern* 114.

Barretry. See Presidents, *Thomp.* 57.

1 *Brownl.* 18. *Bro. Red.* 20. *Hern* 88,

226. *Rob. Entr.* 340.

Champertry. See Presidents, *Hanf.* 61.

*Clark's Manual* 166.

Extortion. See Upper Bench Presidents

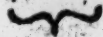
242. *Win. Entr.* 70. 47 *E.* 3. 34, 73.

*Hanf.* 61, *Clark's Man.* 166.

Maintenance, and the like,

which would be too tedious here to enumerate; we will therefore pass to the next and fourth General Head, viz.

(4.) Of Words which scandal a Man in his Office or Place of Trust; as of a Justice of Peace, &c.



## Of Declarations,

## Slander del Office.

Words  
spoken in  
defamation  
of a Justice  
of Peace.

**Northon R.** **A.** B. nup de C. in Com  
ad respons<sup>o</sup> R. S. Quid de p<sup>l</sup>ito transgi  
sup Casum, Et unde idem R. p J. S.  
Atto<sup>r</sup> suum queritur quare cum idem  
R. bonus verus & fidelis ligeus Dñe  
Regine nunc sit ac ut verus & fidelis li-  
geus dic<sup>r</sup> Dñe Regine nunc & dislozum  
Progenito<sup>r</sup> suoz nup regum & regina-  
rum Angl a tempore nativitae sue huc  
usq; se gessit fuit & gubernabit bonozumq;  
nois fame consolat<sup>o</sup> & reputat<sup>o</sup> tam  
apud honorabil<sup>es</sup> Personas quam alios fi-  
deles subditos dic<sup>r</sup> Dñe Regine & Proge-  
nito<sup>r</sup> suoz p<sup>o</sup>dic<sup>r</sup> quibus idem R. notus  
fuerat p totum tempus supradict<sup>o</sup> habie  
dictus & reputat<sup>o</sup> fuit Cumq; etiam idem  
R. die (Ec.) anno (Ec.) fuisset unus  
Justiciar<sup>u</sup> Dñe Regine ad Pacem in Com  
Northon conserband<sup>o</sup> necnon ad diversa  
Feloz transgi & al<sup>ia</sup> malefacta in eodem  
Com ppetrat<sup>o</sup> audiens & termin<sup>u</sup> assign<sup>u</sup>  
idemq; R. p totum tempus quo ipse un  
Justiciar<sup>u</sup> p<sup>o</sup>dic<sup>r</sup> ad Pacem in Com p<sup>o</sup>di  
conserband<sup>o</sup> extitisset iustitiam secund<sup>u</sup>  
potestatem & scientiam suas omnibus se-  
cund<sup>u</sup> legem huius regni Angl equaliter  
& veraciter monstrabit ac seipsum in Of-  
ficio suo iuste & honeste gesserit & gub<sup>er</sup>-  
naberit ac r<sup>o</sup>ne inde idem R. magnam  
benevolentiam bonam opinionem & esti-  
mazonem tam apud dislos honorabiles  
Personas quam alios fideles subditos  
huius

huius regni Angl sibi acquisivit. Ac e-  
 dem p̄dicta' M. p̄dict' secundo die Mar-  
 ti Anno (Ec.) supradicto [p̄ eo q̄d non  
 adveniebat sufficien' securitac ad Pacem  
 p̄dictus Dñe Regine conserband' ac de se  
 bene gerend' erga dict' Dom̄ Reginam &  
 unan' populū suū neq̄on ad comparand'  
 p̄r General Session Pacis p̄ Hundred'  
 & C. in eodem Com̄ tunc tenend'] licite  
 & iuste commissus fuit Prisoni tunc dict'  
 Dom̄ Regine p̄ p̄dict' Com̄ Northton p̄  
 p̄dict' R. S. I. M. D. C. (Ec.) Qui tunc  
 Justic dict' Dñe Regine ad Pacem in  
 Com̄ p̄dict' conserband' neq̄on ad diversa  
 Felonias transḡi & alia malefacta in eo-  
 dem Com̄ p̄petrac audiend' & terminand'  
 assign' p̄dictus tamen M. B. p̄missorū  
 non ignarus set machinans ipsum R. in  
 bonis nomine fama estimatōne & reputa-  
 tione suis p̄dictis magnopere ledere & de-  
 pribare ipsumq̄ R. in scandalū & Displi-  
 centiam tam apud Vicinos suos & alios  
 fideles subditē Dom̄ Regine nunc inferre  
 & inducere die (Ec.) anno (Ec.) apud  
 (Ec.) in Com̄ p̄dicta' loquens de p̄dicta  
 commissione p̄dict' M. ad Prisonam p̄-  
 dictam ex causa p̄dicta p̄ p̄dictos Ju-  
 sticiarios ad Pacem adtunc & ibi nec  
 falsa ficta scandalosa mendacia & Angli-  
 cana verba sequen' de eodem R. tunc unū  
 Justic Com̄ p̄dict' ut p̄fertur existē in  
 auditu quamplurimorū (subditoꝝ dict'  
 Dñe Regine adtunc & ibi existē palam  
 & publice dixit asseruit publicavit & p̄pa-  
 labit videlt You (eundem R. innuendo)  
 were the only Man that caused me (scip-



Slander.

**W** **sum A. innuendo**) to be imprisoned unjustly (**pdic' Commission' Prisonis p pdic' Justie ad Pacem innuendo**) without Bail or Mainprize, and caused Irons to be put on me, and there laid till I was almost dead, and am thereby lamed, **quorū quidē thozū falsozū & scandalosoꝝ dictōnis & ppalaconis ptextu idem A. in bonis nomine fama credenc' & estimatōis suis p̄dictis quibus p̄eantea usus fuerat multipliciter lesus & deteriorat' existit ad dampnū ipsius A. centū Libzard' & inde pduc' Sextam, &c.**

So this Action it is said will lie for any Officer, against him that shall say he hath no Skill in his Office.

So for calling him Extortioner, 10 Co. 61.

But note, where the Talk was of other Matters not relating to his Office, the Action will not lie; and though the Plaintiff set forth part of the Words only, the Defendant may set forth the whole matter in avoidance of the Suit: but if the words be spoken indefinitely without any such reference, they will not be Actionable, *Hob. Pl. 351.*

So it will lie for a Sheriff, Lawyer, Attorney, Receiver, Auditor, Constable, Physician, Preacher, Mayor, Jurymen, Overseer of the Poor, Commissioner, Steward of Courts, Bailiff, Surveyor of Land, &c. 10 Co. 61. 4 Co. 16. *Hob. Pl. 188, 145, 179, 93.*

From

From the whole it is to be observed, that *Slander.*  
where this Action is maintainable for slan-  
dering a Man in his Office, the words must  
be spoken.

1. Either generally without any refe-  
rence, and so may be referred to his Of-  
fice; or,

2. With reference to his Office; for if  
they be spoken on any other Subject than  
his Office, they will not be Actionable.

And the Party that sues upon such Slan-  
der, must declare that he was such an Offi-  
cer at the time of the words spoken: But  
he need not shew that the Hearers did  
know him to be such an Officer, *Hob. Pl.*  
*3, 104, 351.*

And if the words be ambiguous, yet if  
there appear to be such force in them as to  
induce the Hearers to take them in the  
worst Sense, the Court will usually take  
them so, See *Hob. Rep. Pl. 35.*

See Presidents, *Hern. 253. Thomp. 46.*  
*Mod. Intrad. 30. Rob Ent. 65.*

*Pro Officiar. Magne Fiducie, &c. Winch.*  
*intr. 70.*

*Pro un. Auditor. de Cosenage in prisel del*  
*ees.*

*Pro Consiliario, 2 Bro. 22. 1 Sand. 120.*

*Pro Medicin. Doctore, 1 Bro. 21.*

*Pro Rectore de Simony, Tho. 50. 2 Mod.*  
*intrand. 32. 1 Bro. 77. 2.*

*Pro Attorn. de verbis Falsitatis, Hern. 106*  
*mile & ambidexteritatis, 1 Brown. 24. Clerk's*  
*Man. 156. Bro. Red. 72.*

*Pro subcollectore taxarum quod alteravit fi-*  
*guram in libro Assessamenti, Bro. Red. 71, &c.*  
For

For undervaluing a Man in his Trade  
or Calling.

**N.** J. G. de, &c. Attach fuit ad respon-  
sum A. B. de plito tñlgi sup Casum  
unde idem A. p C. D. Attozñ suum querit  
quare cum ipse idem A. artem parandi  
Pannorum Laneorum Anglice of Cloths  
working p quamplur annos jam retroact  
honeste & sciens infra Civitate A. videlicet in  
Paroch (&c.) exercuisset & adhuc exercet  
& omnes & singulos pannos sibi parandi  
per quamcunque personam delibare cum  
necessariis p huiusmodi paratione panne-  
rum ape & idoneis fidelie & artificiali  
semper hucusque operasset & parasset ad  
ratione scientie & fidelitatis ipsius A. in ex-  
ercitio Artis sue pdice idem A. magnum  
questum & commodum tam de diversis  
Mercatoribus hujus Civitatis London quā  
aliis Personis Customariis ipsius A.  
per quamplur annos jam ulē retroact  
honeste & cum summa approbatione om-  
nium personarum p quib⁹ aliquos Pan-  
nos Laneos parasset lucrare & sibi adep-  
tus fuisset pdice tamen A. pmissorum non  
ignare sed bono statui ipsius A. nequit  
invidens, ac malitiose machinans & in-  
tendens ipsum A. in exercitio Artis  
sue pdict⁹ scandalizare & per hoc ipsum  
A. questum & honestum vicum suum  
amittere causare quinto die Augusti An-  
no (&c.) primo apud London pdice in Pa-  
rochia & Warda pdict⁹ falso scandalose



diffamatoꝝ palam publice & aperte in  
 ſentia & auditu quamplur ſide digd  
 eit pꝑalabit & publicabit de eodem M.  
 geſſur ipſius M. in exercitio Artis ſue  
 ſce in Anglicanis verbis hec falſa &  
 ſcandalola Anglicana verba ſequend (vi-  
 t) Thou (ipſum M. innuendo) haſt no  
 ff to do thy Work withal, for the Cloaths  
 at thou (ipſum M. innuendo) haſt to  
 ſſes were turned back again to Mr. R. S.  
 o or three at a time, becauſe thou (ip-  
 ſum M. innuendo) haſt not wherewithal  
 dreſs them. Quozum quidem verboꝝd  
 ſozum & ſcandalozum dictonis & pꝑo-  
 ſitionis pretextu pꝑdice M. in tantam  
 famiam & incredentiam in exercitio  
 ſtis ſu incidit qd quamplur Mercatoꝝ  
 & alii boni Viri qui ante pꝑdice p-  
 ſationem & publicationem pꝑdictozum  
 verboꝝ falſozum & ſcandalozum mul-  
 ſ Pannos Lancos eidem M. parand  
 libare conſueverunt poſt pꝑdictam p-  
 ſationem inde aliquos Pannos Lancos  
 eidem M. parand delibare vel cum eodnd  
 in arte ſua pꝑdicta aliqualiẽ intro-  
 mittere omnino deſiſtunt & penitus ab-  
 ſprent ad dampnum ipſius M. ducene  
 libzarum. Et inde pꝑduc ſectam, &c.

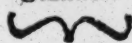
See Presidents for ſaying of a Tradeſ-  
 man that he kept a falſe Book in his Shop,  
*Job. Ent. 46. Hern. III. 212.*

This Action will lie for an Innkeeper or  
 Victualler, if he loſe his Gueſts by the ſpeak-  
 ing ſuch Words, 4 Co. 17.

See Presidents, *Aſhton 21. Sile.*

*Pro*

Slander.

*Pro scissore de verbis de Cosenage, 1 Bro.*

54.

*Pro Brasiatorio de verbis insufficiencie, 2 Bro. 15. Bro. Red. 85. Brownl. Method Novissima 35.**Pro Mag. Navis de verbis inertie & insufficiencie, Aht. 51.**Pro Pandoxatore de insalubri Commixtione Reads Dec. 121. simile de insufficiency, Cl. 109.*

So for calling a Tradesman that uses buying and selling, Bankrupt, or he will be a Bankrupt very shortly; or to say of any Tradesman, That he did cheat a Man in his Trading; or to say he kept false Measures to cozen his Customers, *Vide Hob. Pl. 93.*

And where this Action lieth for slandering a Man in his Trade, the words must be spoken,

1. Either generally, and so may be referred to it: Or,

2. Relatively, as Bankrupt, or the like. Or,

3. With express Reference to it, otherwise they will not be actionable.

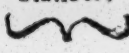
Also the Plaintiff must declare that he was such a Tradesman in particular, and that he was so at the time of the words spoken, *Vide Hob. Rep. 93.*

And in this Action it is held to be the best way to alledge some special Damages if the Case will bear it.

See Presidents relating to this Head.

For a Merchant that he was a Bankrupt 1 Bro. 63. 2 Mod. Intrad. 34. 2 Bro. 23.

Simi

*Simile pro Mercero, Rob. Ent. 77. Thomp. Slander.*  
*52. Mo. Inrand. 1. Clerk's Ass. 198, &c.*   
 See after.

For calling a Man Bankrupt.

**L** M. nuper de S. attach fuit ad  
 respondend C. W. de plito quare  
 in idem C. bonus verus & fidelis li-  
 us Domi Regine nunc sit bonorumq  
 minis fame conuersationis & condito-  
 fuerit & ita tam apud Vicinos suos  
 am extraneas personas hitus dictus &  
 putat extiterit ac per multos annos  
 in ulc elaps Arte sive Mysticio Mer-  
 eri Anglice a Mercer usus fuit & adhuc  
 titur & in eadem Arte absq ulla decep-  
 nis fraudis Bankruptonis sive alteri-  
 alius nocivi Criminis macula hucus-  
 se le gesserit huerit & gubernaverit &  
 rone bone & honeste Conuersationis sue  
 iuste solutionis debitoz suozum mag-  
 nam credentiam & estimationem apud  
 vicinos & Creditores suos & al ligeos  
 Dne Regine hui obtinuit & gabisus  
 sit pcedus tamen U. machinans pzelae  
 minus rite pzegravare ac bona no-  
 men famam credentiam & estimationem  
 sua ledere detrahare & peiorare idem U.  
 quedam verba falsa & scandalosa de pze-  
 re C. apud S. in presentia quamplur  
 ligozum dice Dne Regine palam & pub-  
 lke dixit retulit publicabit & ppalabit in  
 his Anglicanis verbis sequen videlicet  
 Thou (psae C. innuendo) art a Bankrupt  
 Rascall



lander.

Rascal, a Drunkard and one of no Credit  
 quorum quidem verborum falsozū sc  
 dalozūm diccionis publicacionis & p  
 palacionis p̄textu idem C. non solum  
 bonis nomine fama credens & estimat  
 suis graviter lesus est verumetiam in  
 versis negotiis licitis & honestis ag  
 ac in emend vendend & licite bargan  
 zand multiplicie deteriorae existit  
 dampnum ipsius C. 500 l. Et unde id  
 C. per R. S. Attozū suum querit  
 cum, &c.

(6) The sixth Head is of words whi  
 tend to the Loss of a Man or Woman  
 Preferment; as to say of a Woman th  
 is like to have a Husband, That she had  
 Bastard, or she is Incontinent, or that  
 lay with A. B. or that A. B. had the use  
 her Body; and she lose the Match there  
 4 Co. 16.

## Preferment.

For words  
 spoke of a  
 Virgin,  
 whereby  
 she lost her  
 marriage,  
 &c.

Pote ff. **W** P. de (Ec.) attach fuit  
 . respondens H. H. de p  
 cito transge super calum & unde eade  
 H. per R. S. Attozū suum queritur qu  
 re cum eadem H. bona vera & casta  
 gea Dñe Regine sit ac pia & honesta  
 go a tempore Pativitatis sue huculq  
 gessit bonozūque nominis fame gestu  
 conditionis & conversationis honeste ap  
 bonos honestos & prudentes homines  
 Vicinos suos quam alios fideles sub  
 tos dice Domine Regine nunc & p  
 decessor

cessorum suorum nuper Regum Angl  
 a dicta nota & reputae fuit & absque  
 a macula fornicationis vel Inconti-  
 ntie aut alicujus hujusmodi culpe vel  
 tibi Criminis suspitione immaculae  
 intace per totum tempus pcedice se  
 sit & gubernabit. Quorum quidem  
 missorum ptextu quidam R. W. de R.  
 Com pcedice Reom liber homo ejus-  
 m Ville existend ac Vir magne creden-  
 fame substantie & valoris in Terris  
 Catallis suis ad valenc Wille Libra-  
 m de Terris Bonis & Catallis suis  
 de eadem H. ppter suam castitatem &  
 nestiam gestur & conversacionem in Ar-  
 em suam ducere magnopere desiderabat  
 conabatur & colloquium cum eadem  
 H. pro asscutione & conclusionem ma-  
 imonij inter ipsum R. W. & pcedice H.  
 ncludi & contrahi verisimile fuit pcedice  
 men W. pmissorum non ignarus ex sua  
 era & nequissima malitia pchita ma-  
 inand & intendend eandem H. non solum  
 bonis nomine fama credentia & re-  
 atatione suis predictis magnopere lede-  
 & pejozare ipsamque H. in ignominia  
 infamiam inducere verumetiam Ma-  
 tagium pcedice cum eadem H. conclu-  
 nd sibe contrahend desistere causare  
 stea scilicet nono Die Maij anno regni  
 he Anne nunc Regine Angl, &c. secun-  
 in presentia & auditu quamplurimo-  
 am ligeorum dice Dne Regine nunc a-  
 ad R. pd hec falsa scandalosa opprobriosa  
 rba & mendacia de eadem H. tunc sola  
 nupta pura casta & honesta Virgine ex-  
 istend

Slander.

isten malitiose cuidam J. W. colloqui  
 tunc hen de eadem H. dixit retulit pp  
 labit & publicabit in his Anglicanis  
 sequen videt I (ipsum W. innuendo) de  
 see her and T. H. (eandem H. & quendam  
 C. H. de R. pdice innuendo) naught tog  
 ther, and had Carnal Copulation together  
 sup quo pdice R. W. tunc plen & p  
 W. P. adtunc & ibm interrogand qu  
 p Carnalem Copulationem idem W.  
 intendebat (Anglice) did mean idem  
 P. pfac R. W. adtunc & ibidem resp  
 debat qd ipse intendebat p Carnalem  
 Copulationem, (qd, &c.) Quorum quide  
 falsozum scandalosoꝝ & opprobiosoꝝ bo  
 hozum dictionis relaconis ppalaconis  
 publicaconis ptextu eadem H. non solu  
 in magnam infamia & scandalum not  
 & nefandi Criminis Fornicationis  
 continentie apu quamplur venerab  
 Personas & fide dignos dicte Dne  
 gine nunc subdie cum quibus eadem  
 in magnis labore credentia & estimato  
 pantea fuisset incidit verumetiam ea  
 zone pdice R. W. Matrimonium cum e  
 dem H. concludere & contrahere seu ipsa  
 H. in Uxorem suam ducere penitus recu  
 labit & eam totaliter renunciabit & r  
 pudabit ac quamplur al persone magn  
 estimato & credentie qui ad eand H. cau  
 sa Matrimonii ploguens accessum her  
 solebant & cum eadem H. in conjug  
 vinculo Matrimonij conjungi & connec  
 cum magna ferventia & amoze desidera  
 verunt consorzium ejusdem H. ea de cau  
 sa penitus recusaverunt & contemp



ant & adhuc reculant & contemnunt p Slander.  
 mod eadem H. ror credentiam existima-  
 & pferamene Maritagij sui totalie  
 idit & amisit ad dampnū ipsius H. H.  
 10 l. Et inde pducit sex' &c.

So this Action will lie for a Batchelor,  
 for slanderous Words spoken of him in hin-  
 dance of his Marriage, wherein he may  
 set forth that he should have been married  
 to a Woman worth 100 l. in Riches, &c.  
 See *Herns Plead.* 221. The words were, T.  
 is a drunken Fellow and common Where-  
 master, a common Swearer, a Perjured  
 Person, and he is worth nothing, for he is  
 sink; whereby he lost his Reputation, and  
 the Woman refused to take him to Hus-  
 band, &c.

This Action also lies, for saying of a  
 living that is about to be presented to a  
 benefice, That he is an Heretick or Excom-  
 muncate, if hereby he lose lose his Prefer-  
 ment, 4 Co. 16.

So if a qualified Person stand for an Of-  
 fice, Stewardship, or the like, and another  
 say he is an Ignorant Man, and unfit for  
 the Place, and thereby he loseth it.

So if one slandereth a Servant like to have  
 a Service, &c. and he thereby loseth it.

And in this Case the Plaintiff ought  
 specially to alledge the loss of his Prefer-  
 ment.

See for Presidents relating to this Head  
 of Preferment.

*De verbis insufficiencie & inhabilitatis, &c.*  
 Thomp. 50; 2 Mod. Intr. 27.

Slander.

*De Virgine qd' habuit Bastardum*, 1 Bro. 49.  
 Read's Dec. 108, 110. Clerk's Man. 168.  
 Clerk's Aff. 207. Ash. 20.

*De verbis incontinecie per qd' amisit Mari-  
 tagium*, 2 Mod. Intr. 29. Brown's Vade  
 mecum 47. Thomp. 45. Rob. Entr. 106.

*Simile pro vidua*, 1 Bro. 62. Hern 110.

*Simile pur Batchelor per quod amisit mari-  
 tagium*. Thomp. 57. Hern 222.

*De verbis de Bawdrie*. Bro. Red. 70. Vi-  
 dian 44.

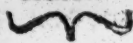
(7.) The Seventh Head is for falsely slan-  
 dering a Man to have an infectious Dis-  
 ease, as the French Pox, Leprosie, Plague  
 or other such dangerous and infectious Dis-  
 ease, whereby he ought to separate him-  
 self, or to be separated by Law from the  
 Society of Men, 4 Co. 17. Hob. Pl. 290.

### Dangerous Disease.

For saying  
 the Plain-  
 tiff had set  
 the French  
 Pox on E.  
 P.

ff. **A.** B. nuper de C. in Comd p[re]d  
 B. B. Gen de p[re]lo trans[er]it sup Casum  
 Et. Et unde idem B. p J. W. Attop[er]  
 suum queritur quare cum Morbus Gal-  
 licus (Anglice vocat the French Pox)  
 semper fuit & adhuc existit estimat in  
 omnes Personas morbus adeo fetidus  
 contagiolus putridus & detestabilis ita  
 quod quelibet Persona non solum feta  
 locietatem & consolatorem talium Perse-  
 narum que cum isto morbo putrido & de-  
 testabili infecte sunt vel que sunt dic-  
 tate

reputat



reputat cum tali morbo infici & contami-  
nari verumetiam aliquod Commercium sive  
Consortium here vel aliqualie intromittere  
cum talibus personis omnino recusat ac pe-  
nitus abhorret comedere vel computare  
cum tali persona infecta vel que reputata  
est cum isto morbo contaminari Cumq[ue]  
etiam idem R. bonus verus & fidel sub-  
dit Dñe Regine nunc existit & ut verus  
pius castus & honestus ligeus Dñe Re-  
gine nunc & pdecessor[um] suor[um] nup Regu[m] &  
Regin[um] Angl[ie] a tempore nativitatis sue  
hucusq[ue] fuit ac pie vere caste & immaculate  
absq[ue] aliquo fede incastie sive dissolute vite  
crimine vel suspitione eorundem penit[er] in-  
tactus immaculatus & immunis p[er] totum  
tempus p[re]s[entis] consolatorem & vitam suam  
laude dignas degit & continuabit omne  
genus sobrietatis p[ro]bitatis & honestatis  
semper desiderans amplectens & exercens  
legum hujus incliti regni Anglie semp  
fuit & adhuc est diligentissimus Obser-  
vator & ab omni incontinentia luxuria &  
immodestia tam immunis & innocens  
q[uam] nunquam p[ro]petrabit sedum & atrox  
crimen Fornicationis Adulterij aut ali-  
quod hujusmodi nocivum scelus nec un-  
quam fuit contaminatus vel infect[us] cum p[re]-  
dicto Morbo Gallico sed p[er] totum tempus  
vite sue cursum semp fuit & adhuc exi-  
stet liber & immunis in omnib[us] partib[us]  
corporis sui ab eodem morbo putrido &  
detestabili & nunquam fuit suspect[us] vel re-  
putat cum isto Morbo infici vel contami-  
nari quorundem p[re]textu idem R. non solum  
solitus fuit uti & gaudere solamine socie-  
tate



Slander.

tate & consolacione amicoꝝ & vicinoꝝ socioꝝ  
 & consanguineoꝝ suoꝝ ad magnū vite  
 sue solamen & dulcedinem verumetiam  
 in magnū favorem & benevolentiam di-  
 versarū psonarū honozabilū venerabilū  
 magneꝝ reputacionis & existimaconē sibi  
 non immerito adeptus fuit & conciliabit  
 pꝛed camen A. pmissorū non ignarus sed  
 ex sua mera & nequissima malitia phabita  
 felicitatē ipsius R. vehementer & magno-  
 pere invidens machinansq; & nequiter in-  
 tendens ipsum R. non solum in bonis  
 nomine fama credentia & reputaconē suis  
 pꝛiaꝝ quibus ut pꝛfertur imbutus fuit  
 minus iuste ledere & pejoꝛare & totaliter  
 denigrare ac ipsum R. in publicū dedecꝝ  
 oppꝛobrium discredentiam & scandalū in-  
 duci causare ac facere ut pꝛed Vicini sui  
 & alie psonę pꝛed que cum ipso R. pantea  
 societatem & consortiū habere & intro-  
 mittere consuehant eundem R. p psona  
 flagitiola & incontinenti haberent & esti-  
 marent necnon reputarent ipsum p psona  
 libidinosa & cum pꝛed Moꝛbo Gallico  
 (existē) moꝛbo putrido contagiolo & de-  
 testabili ut pꝛfertur) infectꝝ & contaminatꝝ  
 ac pinde facere omnes Amicos Socios  
 Consanguineos & Vicinos ipsius R. ac  
 omnes al psonas quibus ipse unquam  
 cognie fuit ipsum R. penitus abhorrere  
 & omnem societatem & consolacionem suas  
 funditus vitare & pinde ipsum R. vitam  
 desertam disconsolare & detestabilē agere  
 decimo die Maij Anno Regni Domi Regi-  
 gine nunc pꝛimo apud C. in Com pꝛed  
 habens colloquiū de & cōtēnē ipsum R.

runt

tunc & ibidem cuidam T. M. de C. p̄dic' Slander.  
 p̄eord in p̄sentia & auditu diversarum  
 venerabilium & fide dignarum p̄sonarum dicit  
 Domine Regine nunc fidelium subditie ibidem  
 congregatæ de eodem R. hec falsa ficta &  
 scandalosa opprobriosa & malitiosa Angli-  
 cana & mendacia sequens falso fide  
 scandalose & malitiose dixit retulit p̄pa-  
 labit & publicabit videlicet Master R. S. of  
 N. (innuendo R. S. modo Quer) hath  
 set the French Pox on E. P. (quandam  
 C. P. de C. p̄eord innuendo) ubi revera  
 ipse idem R. tempore dictonis & publi-  
 cationis p̄dicarum verborum falso & scanda-  
 losorum vel ad aliquod tempus vite sue  
 non fuit infectus cum p̄eord Morbo Gallico  
 Quorum quidem verborum falso & scanda-  
 losorum dictonis & p̄palarum p̄textu idem  
 R. non solum in publicum scandalum de-  
 becus & infamiam inductus est & p̄ per-  
 sona libidinosa & sceleratissima Anglice  
 (debauched) reputatus est verumetiam  
 Amici Vicini & Consanguinei ipsius R.  
 ac alii plene ipsum R. ut p̄sonam infectam  
 & contagiosam fugerunt & abhorruerunt &  
 adhuc fugiunt & abhorrent & cum ipso  
 R. aliqualem intromittere vel conversare  
 omnino recusaverunt & adhuc recusant &  
 p̄inde idem R. in diversis negotiis suis  
 licitis & honestis agendis multipliciter im-  
 pedire existit ad dampnum ipsius R. centum  
 Librarum Et inde p̄ducit Sextam &c. Cum  
 hoc quod idem R. verificare vult quod Averment  
 p̄dic' Anglicana & (Mr. R. S. of N.  
 hath set the French Pox on E. P.) signifi-  
 cabant quod idem R. laborabat de p̄dic'

Slander.



putrido Morbo Gallico & quod ipse cum morbo isto detestabili ptae E. antetunc infecit (Anglice had infected) & contaminabit & in isto sensu tunc & ibm fuerit intellecta p p'dict' psonas in quarū auditu eadem &ba locuta fuerit.

Seemore concerning this kind of Action in *Cro.* 99, 648, 878. *Stiles Rep.* 64, 112, 219, 283. *Noy's Rep.* 151. *Goldsb.* 11. *Hob.* 219, 290. 4 *Co.* 17. 2 *Cro.* 144. *Hetley* 70. 2 *Cro.* 498, 499.

See Presidents, 2 *Bro.* 6. 2 *Mo. Intr.* 26.

(8.) The Eighth Head is for slandering a Man in his Title to his Estate. As to say he hath no Right or Title to it, or hath no good Estate, or can make no good Estate of it; especially when the Party is about to sell or let it; and if thereby the Chapman doth desist or fall off.

Also it is said this Action will lie in the Cases as before, although the Party speaking pretend some colourable Estate or Title to the Land, &c. if it appear he hath not a good Title in Law to it.

As if two have Leases of the same Land, and the Defamer hath the latter which is not good, and he say the Land is his, and the others Estate is not good. *Vide* 4 *Co.* 18. 1 *Co.* 177.

Slander



Slander de Title.

Plaintiffs set forth, That *J. S.* being seized of several Manors of Lands covenanted to stand seized to the several uses of three Daughters, one of which is the Plaintiff's Wife; and they had a Discourse with *E. D.* about making him a Lease for years for 200 *l.* And the Defendant said, That *J. S.* had made a former Estate for 1000 years, whereupon *E. D.* refused to take the Lease.

*Midst.* **A** *& G. Ur' vers' R. S.* That the Manor of *L.* being settled to the use of *J.* for Life, Remainder to *H.* Remainder to *A. & G. Ur' & J. C. & O.* Ur' after death of *H. S. &c.* post cujus *J. S.* mozt pzed Hanna in pzed Man de *L.* cum ptiid intravit & fuit inde seie in dinto suo ut de libo Ceito p termin vite sue Remanei inde post mozt ipsius *H.* ut superius limitae Ac pzed *A. & G. & J. C. & O. Ur' ejus* in Ceñ pzed in *B.* intraverit & fuerit inde seie videlt iidem *A. & G.* de medietate inde ut in jure ejusdem *G.* ac pfae *J. & O.* de alie medietae inde ut in jure ejusdem *O.* in dinto suo ut de feodo talliae ut pferet eis inde limitae eisdemq; *J. & O.* sic inde seie existend iidem *J. C.* obiit post cujus mozttem pzed *O.* de remanei medietae Manerij de *L.* cum ptiid ac de medietae pzed Ceñemene de *B.* pzed in forma pzed seie existend necnon pzed *A. & G.* in jure ejusdem

Slander.

Discourse  
about the  
Pemise.Substance  
of the Slan-  
der del Ti-  
cle.

dem G. de remanere alterius medietate  
ejusdem Manerij & de altera medietate  
pdictorum Tenementorum in B. p[re]d in fe-  
ma p[re]d scilicet seip[se] existens quidam E. D.  
Gen[er] apud W. p[re]d in dicto Com[mun]i  
colloquio fuit cum p[re]fate A. p[er] dimissionem  
medietate eorundem A. & G. quadraginta  
Ac[er] Terre in L. p[re]d parcel p[re]d Ma-  
nerij de L. ac quadraginta Ac[er]arum Terre  
in B. p[re]d parcel p[re]d Tenementorum in B.  
p[re]d p[er] eosdem A. & G. dicto E. D. in scrip-  
tis p[er] termino 21 annorum a morte p[re]fate  
Hanne incipiens & tunc proxim[us] sequens  
plenas complens si eadem G. tam diu  
vixerit Et p[re]d E. D. asseruit se datu-  
rum p[re]d A. & G. p[er] dimissionem p[re]d  
cent libras legalis monete Angl[ie] ad sig-  
nacionem scripti dimissionis p[re]d Et p[re]fate  
A. & G. eandem dimissionem p[re]d E. D.  
p[er] p[re]d 200 l. facere p[ro]posuerunt Quod  
p[re]fatis p[re]d R. S. non ignarus scrip-  
tum statum interesse & ius ipsorum A.  
& G. de & in p[re]d medietate p[re]dictarum qua-  
draginta Ac[er]arum Terre in L. p[re]d parcel  
p[re]d Manerij de L. p[re]d ac p[re]dictarum  
rum aliarum quadraginta Ac[er]arum Terre  
in B. p[re]d parcel p[re]d Tenementorum  
in obloquium inducere & inferre ipse  
que A. & G. de p[re]d ducere libras  
confectionem dimissionis p[re]d recipiens defra-  
dare & impedire intendens (die & ann[us]  
&c.) apud Westm[onasterium] p[re]d falso malitiose  
& scandalose asseruit retulit declaravit  
publicabit in p[re]sentia p[re]d E. D. & quan-  
plur aliorum ligo[rum] dict[orum] Dom[ini] Regis qui  
p[re]dictum



predicium Manerium de L. cum perti-  
nentiis unde predice quadragine Ace  
Terre in L. pdice sunt & tunc fuerunt  
parcel ac predice quadragine Ace Terre  
in B. pd legitime securae fuerunt p pd  
J. S. pfectae J. C. & O. in vita ipsius  
J. ad eorum ppe usus p termino mille  
annorum proxime & immediate sequen'  
deceſſ predice J. S. & Hanne Uxor ejus  
& qd predice J. C. & O. in vita ejusdem  
J. fuerunt de interesse termini ejusdem  
Manerij de L. cum ptinen pdtarum qua-  
dragine Acrarum Terre in B. pd legiti-  
me possessionar Et quod pdice O. post  
mortem pd J. C. fuit sola possessionar de  
huiusmodi interesse ejusdem Manerij &  
quadragine Acrarum Terre in B. pdice p  
jus accrescendi] ubi reuera idem Mane-  
rium de L. predice quadragine Acrarum  
Terre in B. pdice seu aliqua inde parcel  
non fuer legitime securae pfectae J. C. &  
O. seu eorum alteri p aliquo termino  
annorum put predice H. S. falso & scan-  
dalose declarabit & publicabit pteru quo-  
rum quidem falsozum & scandalosorum  
verbozum dictionis ppalaconis & publi-  
caconis non solum quamplue liget dice  
Dond Regine dictis scandalosis verbis  
fidem adhiben p veritate crederunt &  
tenuerunt & adhuc credunt & tenent quod  
talis legitima securatio pdice Manerij  
de L. & predice quadragine Acrarum  
Terre in B. fact fuit pfect J. C. & O. p  
termino mille annorum ac quod pd O.  
de interesse termini pdice adhuc legitime  
possessionar existit verumtiam pd E. D.  
predice



Slander.



pdice dimissionem predicte medietate  
 pdice A. & G. predictarum quadraginta  
 Acrarum Terre parcel predicte Maner  
 de L. ac predicte quadraginta Acrarum  
 Terre in B. pdice parcel pdice Tenemen  
 rozum in B. pdice de ipsis J. & G.  
 dimissionem p termino viginti unius  
 Annozum ut pfertur recipere & pdicta  
 ducene libras eisdem A. & G. pro dimi  
 sione illa dare & solvere penitus recusab  
 ad dampnum ipsorum A. & G. tresce  
 tarum librarum, &c. Et unde, &c.

For saying the Plaintiff had no Right  
 to the Manor of L. being about to  
 let it, whereupon a Commission was  
 procured to enquire if the Manor  
 was not concealed from the Crown  
 &c.

Sond ff.

**A** B. vers C. D. Gen—  
 Et unde idem A. B. per  
 A. W. Attorū suū queritur quare cum  
 idem A. bene pacifice & quiete seistus  
 fuit in dñico suo ut de feodo de & in Ma  
 nerio de L. cum ptine Et sic inde seistus  
 existens idem A. postea scilicet primo die  
 Januarij Anno Regni Domine Regine  
 nunc Anglie, &c. secundo Manerium illud  
 cuicunq; persone sive quibuscunq; perso  
 nis illud capere volē vel volentibus  
 ad terminum annozum inter eos agre  
 and dimittere pposuisset & intendisset  
 dictus C. pmissa satis sciens machinans

& titulum ipsius A. ad Manerium  
 in scandalum & infamiam inducere  
 osum A. quominus ipse Manerium  
 alicui persone juxta intentionem &  
 consuetudinem suas p̄dicte dimittere possit  
 p̄dicte [ & dice Dominam Reginam ad  
 Manerium illud tanquam ad Manerium  
 dice Dña Regina concedat & ad dice  
 Regina in iure Corona sue Ange  
 lica & pertinet intitlare pponens ]  
 tertio die Januarij Anno secundo supra  
 dicto apud L. p̄dictam in p̄sentia & au  
 dencia cujusdam P. C. Gen & diverso  
 rum aliorum ligeorum dice Dñe Regine  
 Com A. ignoe affirmabit & publicabit  
 p̄dicte A. B. nulli huius jus sive titu  
 lum ad Manerium p̄dicte Anglice did  
 uirm and publish, that A. B. had no right  
 to the Manor of L. (innuendo) quod p̄re  
 ce A. nullum huius jus sive titulum ad  
 Manerium de L. p̄dicte per quod p̄dicte P.  
 affirmatoni & p̄palaconi p̄dicte C.  
 dice fidem adhibens postea scilicet de  
 no die Augusti Anno Regni dict Dñe  
 Regine nunc Anglie, &c. quinto supra  
 dicto p̄secut fuit extra Cur Cancellar dice  
 Dñe Regine qualsdm Literas Patenti sive  
 commissionem sub magno Sigillo ipsius  
 Com Regine Anglie sigillat quibusdam  
 W. Mil & al direce ad inquirend per  
 sacramentum p̄borum & legittum homi  
 num de Com S. p̄dicte utrum jus sive ti  
 tulus Manerij illius de dice Com Re  
 gina concedat fuisset necne Rone qua  
 uidem affirmatoni & publicatoni p̄re  
 dice p̄dicte A. Manerium illud cum  
 per

Slander.

pertinens alicui persone sive aliquibus personis dimittere non potuit ac idem A. diversas denariorum Summas cum defensionem juris & tituli sui ad Manerium illud cum pertinentiis solvere coactus fuit quorum preterea idem A. multipliciter veracem inquietam & deteriore existit unde dicit quod deteriore est & dampnum habet ad valentem centum & quinquaginta librarum Et inde adducit Sextam, &c.

See in Upper Bench Presidents, 116. The Plaintiff being seized of Lands by Feoffment, parcel whereof he would have sold. The Defendant said, He had an Estate thereof by Deed.

*Lib. eod. fol. 235.* The Plaintiff was seized of a Manor, whereof 100 Acres, of which the Plaintiff had a Warren, was parcel, and which he would have sold, and the Defendant said, That one R. had a Third part thereof, &c. *Vide R. Ent. 494. 594.*

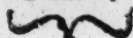
*Vide 3 Brownl. 112.* The Plaintiff was seized of Lands for the Life of himself and others, for which he bargained with M. and the Defendant spoke words, whereupon M. refused to proceed in the Bargain.

See Presidents, *Rast. 112, 494, 594. C. Ent. 29, 30, 35. Hern. 111, 141. 1 Bro. Rob. Ent. 14. 2 Mod. Inrand. 25.*

(9.) The Ninth Head is of words which tend to a Man's Disinheritance.

Slander





Slander tending to Disinheritance.

e ff. **A.** B. Gen<sup>l</sup> fili<sup>9</sup> & heres C. B. For calling  
 Armiger<sup>9</sup> defuncte querit<sup>9</sup> the Plain-  
 tiff (being  
 an Heir)  
 Bastard.  
 H. in Custos Mare Marese Dñe  
 ine coram ipsa Regina existens pro eo  
 quod cum idem A. ex Matrimo-  
 Conjugio p<sup>re</sup>dice C. & Marie Ar-  
 juxta Jur<sup>is</sup> Ecclesiastica inter ipsos  
 & M. celebrat<sup>9</sup> verus legitimus & in-  
 status Filius ejusdem C. ex legiti-  
 mo concepe existit & secundum leges  
 mi dice Dñe Regine nunc Anglie ut  
 us & Heres ip<sup>s</sup>us C. de diversis  
 Tenementis & Hereditamentis ad an-  
 valo<sup>re</sup>m ducentarum Marcarum &  
 solius scilicet existit in dñco suo ut  
 modo alias<sup>9</sup> Tere & Centa annui valo-  
 quadragine librarum de quibus idem  
 p<sup>re</sup>dice A. injuste & sine judicio dis-  
 us existit jure hereditario eidem A.  
 filio & Heredi p<sup>re</sup>dice C. descendere de-  
 sent Idemq<sup>ue</sup> A. pro hujusmodi vero  
 timo & indubitae filio & Heredi p<sup>re</sup>dice  
 tempore Patibitatis sue hucusq<sup>ue</sup> ha-  
 us dñs reputat & indubitae accepe-  
 rat quorum p<sup>re</sup>missorum p<sup>re</sup>dice A. non  
 arus ex p<sup>re</sup>versa & iniquissima volunt<sup>ate</sup>  
 machinans ipsum A. p<sup>er</sup> Bastardo re-  
 tari ac ipsum A. de hujusmodi Patri-  
 monio seu hereditat<sup>is</sup> Terr<sup>arum</sup> Tenementorum  
 hereditamentorum falso subdole & ne-  
 ssime depr<sup>im</sup>ere ac Patrimonium seu  
 hereditatem ip<sup>s</sup>us A. in scandalum &  
 infamia

Slander.

**W** infamia apud diversos dicit Dñe Regine nunc subdit falso malitiose & penitus absque causa deducere quodque idem fidei dicit Dñe Regine nunc subdit ipsum tanquam Bastardum ex illegitimo th contempe reputarent & estimarent decimo quinto die Augusti Anno Regni Dñe Anne nunc Regine Anglie, Et secum apud V. in Com p dicit hec falsa ficta scandalosa & diffamatoriosa Anglicana verba sequen videlicet [Thou (p dicit M. modo innuendo) art a Bastard, and not the son of C. B. and thou (eundem M. ulterius innuendo) oughtest not to have any Land of p fce M. in p fentia & auditu quorundam plurimorum fidelium dicit Dom Regine nunc subditorum falso malitiose & scandalose dixit retulit asseruit ppropalabit publicabit Quorum quidam falsozorum & scandalosorum Anglicanorum verborum ppropalacionis ptextu idem non solum in magnum scandalum & infamiam apud diversos venerabiles viros aliosque fideles dicit Dom Regine nunc subdit incidit & inducit existit ac iuramentum ipsum M. Terrarum & Censuum suorum p dicit C. post mortem ejusdem eidem M. descend magnopere diffamatur scandalizat existit verumetiam idem summo piculo evictionis & pditionis suorum Terrarum & Hereditamentorum suorum ea occasione inducit existit dicitur que denar Summas de hujusmodi scandalo & infamia seipsum purgans & vacuans & honestatem bona nominem suam & reputacionem sua manutene

sufficiantē exponere & errogare co-  
g & compulsus fuit. Unde idem A.  
it quod ipse deteriorat est dampnum  
ad valencē 500 l. Et inde produc. Se-  
m, &c.

Note, It's said this Action for calling a  
wful Heir, Bastard, will lie, although  
Words were spoken before, or after he  
the Land in Possession, and though he  
not about to sell the Land, and though  
hath no Less by the speaking of the  
ords, 4 Co. 17. M. 20 Jac. B. R. Elborrow's  
se; for by this the Title of his Land may  
called in Question.

But if the Party who spoke words, claim,  
next Heir to the Land, he may justifie  
and the words will not bear an Action;  
and if the Plaintiff omit this, the Defen-  
nt may set it forth by way of Bar, *Vide*  
*ut supra*.

See President, Co. Ent. 28, 29. Hen. III.  
66. Thomp. 58. Read. Dec. 127. 2 Mod.  
rand. 26.

*Simile de Filia & Hered. Hans. 26. 2 Bro.*

(10.) The Tenth Head laid down is  
defamation by Deed or Action, which is  
more than a Slander by Word, and this  
may be done by a malicious Indictment,  
by a Libel, which is a scandalous Wri-  
ng, or other Act done to defame ano-  
er.

See for that of Indictment before 42.  
and see Conspiracy 57.

For



Slander.

For writing on a Paper, and therein slander-  
ing the Plaintiff to be a Seducer of  
Witnesses, &c.

**N.** **L** ad respondens D. Gen. und  
toznd (Ec.) queritur qd cum ipse  
bonus verus (Ec.) reputatus fuit Cumque  
etiam idem D. p nonnullos annos jam  
ule elapsus fuit & adhuc existit und  
toznd Cur Dñe Regine de Banco hic  
quo quidem Officio und Attoznd predictus  
Cur hic etiam in via Sollicitatoznd  
Causarum & Sectarum tam in al Cur  
de Recordo apud Westm in Com Westm  
quam in al Cur infra hoc Regnum  
Angl absque aliqua embzacione sedue-  
tione seu mantenzone testium ad falli-  
jurand Ac absque aliqua falsa vel sinistra  
tractacione seu insinuacione cum hujusmo-  
di testibus sive pcuracione aliquoz fal-  
soz sacroz in negotiis suis Attoznd  
vel Sollicitatoznd bene & honeste se gessit  
& habuit p quod idem D. bona nomi-  
nam & opinionem cum Clientibus  
suis conciliabit ac oracione inde diver-  
grandia lucra & proficua pro victus  
acquisitione & familie sue sustentacione  
lucrari & acquirere usus fuit Cumque  
etiam predictus L. & Eliz. Ar' ejus al  
scilicet Terminis (Ec.) Anno (Ec.) in Cur  
dice Domine Regine Cancellarie  
apud Westm in Cur predictus tunc existit  
quandam Willam suam querimonie  
suis quendam C. exhuissent Et sup

eadem Billa talie pcesſſ fuit in eadem  
 Curia Cancellarie quod diverſi teſtes vi-  
 ſit R. H. & pcedit D. modo quet &  
 pduct & examinae fuiſſent in eadem  
 Curia ex parte pced T. pced tamen L. p-  
 ſſorū non ignarus ſed machinā & in-  
 ſidē bon nomen & famam ipſius D.  
 ere pejozare & deſtruere ac ipſum de  
 ſu ſuo & familie ſuſtentatō deprivare  
 ſi die anno & loco ) falſo & ex mera  
 ſitia ſua debiſavit compoſuit & ſcripſit  
 quadam Pappo de & concernēd pre-  
 D. & pſae R. & H. reſpective Teſtes  
 ut pſertur pduct & examinae exiſtēd  
 Cauſa pced inter L. & C. Ur' ejus &  
 e T. ( inter alia verba ) hec falſa &  
 ſcandalofa verba ſequē videt ( here re-  
 the Words ) Ac poſtea ſciſt ( eiſdem  
 anno & loco ) pced L. pced Pappum  
 timent in ſe falſa malitioſa & ſcandalofa  
 ba pced malitioſe publicavit Quorū  
 dem diviſatō compoſitō ſcripture  
 publicatō Pappi pced ptextu pced D.  
 nomen famam & opinionem ſua apud  
 entēs ſuos amiſit Ac Clientes ſui  
 um totaliter deſeruet p quod idem D.  
 ſu ſuo & familie ſue ſuſtentatō to-  
 de deprivat exiſtit ad dampnum ( &c. )  
 inde pduc Sextam, &c.

Note, A Libel may be by Writing or other  
 done, as is before ſaid.

(1.) By Writing — As when any  
 gram, Rhyme, or other Writing is  
 poſed or publiſhed to the Defamation  
 Contumely of another, by which his  
 good

Slander. good Name and Fame may be pre-  
 ~~~~~ duced.

And this may be either by malicious repeating or singing the Words in the presence of others; or by delivering over a Libel or any Copy of it to another, to the intent to scandalize the Party.

(2.) Without Writing — As by Pictures, when the Party is painted in an ignominious or reproachful manner — Or by Signs, As when one doth make up a Gallows, or any other reproachful ignominious Sign, at the Door of the Party or elsewhere, 5 Co. 126, 225. 1 Cro. 22. 2 Brownl. 152. Popb. Rep. 139, 140. H. 153, 334, 337. Hetley 10.

Note, This Offence was formerly punishable in the Star-Chamber, and now is punishable by Indictment in the Queen's Bench and other Courts.

And when it falls within the Rules of Slander, the Party grieved may have an Action on the Case in this way as well as otherwise, 2 Brownl. 152. Hob. Pl. 334.

For fixing a Libel on the Church-door to defame the Plaintiff.

London H. A. B. H. S. de p. A. transg. sup. Casum queritur quare cum dictus A. verus fidelis ligeus Domini Regine nunc ex ac ut hujusmodi verus & fidelis ligeus subdit dicti Dñe Regine & dispozum gent.



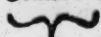
# Of Declarations:

99

Slander

p[re]tor suoꝝ nup[er] Regum & Regi[n]d Angl[ie]  
 tempore Patibitatis sue hucusq[ue] se ges-  
 sit & fuerit ac bon[um] nominis & honest[us]  
 & consolat[i]onis apud omnes dic[ti]  
 Regine fideles subditie notus dictus  
 reputat[us] fuit quoꝝ quidam bonoꝝ no[m]i[n]is  
 & consolat[i]on[is] p[re]textu dictus A. inu[en]it  
 & p[ro]ficua & emolumenta de dictis li-  
 tis dict[is] D[omi]ne Regine magnam fiduciam  
 dicto A. h[ab]entibus p[re]cepit & via suum  
 status est & h[ab]uit p[re]d[ic]t[um] tamen A. p[re]-  
 dictoꝝ non ignarus postea videlicet unde  
 die Julij Anno dicte D[omi]ne Regine  
 secundo in Parochia Sancti Olavi  
 veteri Iudaismo London ex sua mera  
 malicia malo animo & malevola inten-  
 te machinans atque intendens dictum  
 minus iuste p[ro]gravare & intendens  
 p[ro]ponens dictum A. de bono nomine  
 fama (quibus dictus A. p[ar]te[m] & ad-  
 re imbut[us] fuerit) absq[ue] causa deprivare  
 dictum A. in malum nomen famam  
 in piculum vite sue inducere (Ita  
 dict[is] A. multa grandia p[ro]ficua & emo-  
 lumenta que idem A. ra[ti]one boni no-  
 mis fame & consolat[i]onis p[re]dict[is] conse-  
 cutus est p[er]deret & amitteret) tunc &  
 eodem quandam literam sive billam cum  
 versis verbis vilipendiis scandalosis  
 defamatoriis in eadem Billam sive Li-  
 teram scribi fecit ac dictam Billam sive Li-  
 teram sic scriptam die & anno p[re]dicta sup[er]  
 Altum Cathedralis Eccle[si]e Sancti Pauli  
 maximus est concursus Populi pa-  
 & publice infigi fecit Quam quiddam  
 Billam sive Literam sup[er] Altum p[re]dicta  
 H 2 per

Slander.



per spaciū unius diei idem remanentem  
 quamplurimi p̄ dictam Ecclesiam euntes  
 & redeuntes legerunt & viderunt cuius  
 quidem Bille transcriptum & tenor patet  
 in quadam schedula huic narratōi con-  
 suta p̄textu cuius dict' A. non solum in  
 bonis nomine & fama (quibus ante tem-  
 pus illud habebat & putabat) tam  
 infra Civitatem Londoni quam infra to-  
 tum Regnum Angl' graviter lesus &  
 deteriorat' existit verumetiam in magnam  
 infamiam & incredulitatē apud omnes fa-  
 deles subditos Dom' Regine nunc incur-  
 rit & incidit p̄ quod idem A. multa  
 grandia pficia & emolumenta que idem  
 A. de dictis subditis dict' Dñe Regine  
 tam in merchandizando quam in facultate  
 sua impressoria qua uti haberet & pe-  
 pere potuisset orōne p̄d' totalit' p̄didi-  
 & amisit Unde idem A. die qd' deterio-  
 rat' est, (Ec.)

In this sort of Action, these things are  
 further to be known, viz.

(1.) That it matters not, whether the  
 things said be true or false.

(2.) It matters not whether the Part  
 against whom it is made, be of good or  
 evil Report.

(3.) It matters not how it be divulged  
 and whether secretly or openly.

Contri-  
 vance and  
 Publicati-  
 on

(4.) The Offence about this lieth either  
 in the contriving of it, or in the procuring  
 of it to be contrived; or in the malicious  
 Publication of it after a Man knoweth  
 what it is. But to read it or hear it read

when he readeth or heareth it read, to laugh at it, is no Offence; or if he take a Copy of it, and doth not publish it to others, this is no Offence. But if after he hath read, or heard it, he repeat the same, or any part of it in the hearing of others; or after he knoweth it to be a Libel, he readeth it to others, this is an unlawful publishing of it; And if he take a Copy of it, and do not after deliver it to a Magistrate, to examine it, it is a great Evidence that he doth publish it. *9 Co. 60.*

Slander.

That if therefore one write a Letter containing scandalous Matter against another, and sendeth not to him, but a third Person, this may be a Libel, *Brownl. 2 part. 52.*

A scandalous Letter.

And so some hold of a Letter written to the Party himself, *Poph. Rep. 139, 140.*

And so it seems, after a Letter written to the Party himself, and not sent to him, but scattered abroad, that he might have notice of it, *Hob. Rep. Pl. 153.*

(5.) That albeit the Party of whom the words be spoken be dead, yet the Libeller may be punished for it, be it against a private or publick person, *Vide 5 Co. 125. 2 Co. 134.*

(6.) That therefore if one find a Libel, and will keep himself out of danger, if it be against a private Man, the finder is either to burn it, or give it presently to a Magistrate; but if it concern a Magistrate or other publick Person, he is presently to deliver it to a Magistrate, to the intent the Author may be found out.



Slander.

See before 52. and see *Rast. Entr.* 13. *De falsis Billis exhibit.*

*Pro Nuncio Regis de falsa & scandalosa Petitione*, *Hern* 153. *Rob. Entr.* 72.

*Simile pro Legum Doctore ad Committee de Parliament*, *Vidian* 36. 1 *Saund.* 120.

*Pro Attorn' de falsis Articulis exhibit.* *Hern* 157.

*Pro Consiliario ad Legem de falso Libello* 2 *Brown.* 22. 1 *Saund.* 120.

*Who may have Action of Slander, and against whom.*

**N**OTE, as to Actions of Slander in general.

1. That an Alien born under a King in Amity with our King, may have this Action. 1 *Bul.* 134. *Relv.* 198.

2. If one Man slander two Men at one time, they may not join, but must have several Actions, 1 *Cro.* 368. *Dyer* 19 *Goldsb.* 76.

3. So if two Men do slander one Man, he must sue them severally.

4. If the Slander proceed from the Wife, the Husband and Wife must be sued for it, and not the Wife alone; But for words spoken both of a Man and his Wife, the Husband may sue one Action alone, for his own Slander; and he and his Wife may after sue another Action for the Slander of his Wife. — And for any Slander of the Wife alone, it is best to join the Husband and the Wife in the Suit, *Stiles Rep.* 113, 161.

5. If two have an Office jointly, and Slander be of one of them in relation to his Office, he must bring his Action alone, *Winch. 21. Rep. 40.*

6. If one say of a Jury, All the Jury is forsworn, every Juror may have this Action against him, and then must sue a-sunder, and not together, *Mich. 7 Jac. Deacon's Case in C. B.*

7. Where the Words are utterly uncertain, in, and of themselves, there no *Innuendo*, or Averment can make them certain; but where the Words are so certain in themselves as that it may appear what Person the Speaker did intend, there the words may be actionable, *3 Bul. 72. 2 Cro. 107.*

8. If the Declaration be laid, that the Defendant *dixit* the words, and say not *de Querente*, it is naught; for now it appears not how the words were uttered, *Stiles Rep. 70.*

**H**AVING first spoken to Actions upon the Case about Words,

It remains secondly to speak of Actions on the Case about Deeds.

Which I observed before, are either for,

1. *Nonfeasance.*
2. *Misfeasance*, or,
3. *Malefeasance.*

And in most Books I find these generally placed under the Title of *Torts*, i.e. Wrongs

Assumpsit.

or Injuries, and intermix'd one with another.

But I have endeavoured a little to distinguish them.

1. The Distinction of *Nonfeasance* seems to be, when a Man does not do or perform something, which he ought to do, either by his own express undertaking (called an *Assumpsit express*.)

Or by the Implication or Requiring of Law (called an *Assumpsit implied*) by the not doing whereof the Plaintiff receives damage.

2. *Misfeasance* seems to be, the doing of something (which a Man hath expressly undertaken to do; or which the Law by Implication requireth him to do) otherwise than he undertook, or the Law requireth it should be done, by the misdoing whereof the Plaintiff receives Damage.

3. *Malefeasance* also seemeth to be, when a Man does something purposely on his own Head, Fancy or Humour, without any express Agreement, Implication or Requiring of Law, by which ill-doing the Plaintiff likewise receives Damage.

And these Distinctions I will endeavour to set forth by separate Presidents.

And first about a *Nonfeasance* upon an Express or Implied Promise or Duty, which may have reference,

- (1.) Either to a Man's Real,
- (2.) Or to his Personal Estate, Or,
- (3.) To his Person.

*Assumpsit*



*Assumpsit.*

*Nonfeasance* upon Express Promise touching Real Estate.

For not making a Feoffment of a Messuage according to Bargain and Promise, but Selling it to another.

20<sup>th</sup>. 11. **A** B. queritur de C. D. in Custodi Marc Marese Dñe Regine coram ipsa Regina existend de eo quod cum idem A. cum p̄fate C. ad unum Messuagium ejusdem C. scituac in R. in Com̄ p̄dicte ab eo emend pro quadam pecunie summa videlicet pro centum Solidis eidem A. p̄e manibus solue apud R. (talibus die & anno) bargainasset idemq; C. Feoffamentum in de p̄fate A. & Heredibus suis infra certum tempus jam elaps videlicet infra quatuordecim dies p̄or' post p̄dicte die facere ibidem eodem die Assumpsisset p̄dicte C. licet sepius requisit, &c. Feoffamentum p̄dicte eidem A. in hac parte iuxta formam assumptionis p̄dicte non fecit sed ipsum A. in hac parte callide machinans defraudare Messuagium p̄dicte cuidam S. infra tempus p̄dicte apud R. p̄dicte vendidit & Feoffamentum inde eidem S. & Heres suis infra idem temp' falso & fraudulente fecit ad adimplend (&c.) Et inde p̄ducit Sextam, &c.

See

Assumpsit.

See Presidents, *Rast. Ent.* 5, 6. 7 *Ass.* 13  
*Hern.* 66, 94, 129, 169. 1 *Brownl.* 234  
 3 *Brownl.* 52.

For not delivering Seisin of Land sold  
 according to Bargain and Promise  
 but selling and delivering it to ano-  
 ther.

Northton II.

**A**. B. Attach fuit ad re-  
 spondendū L. de placito quare cum idem L. de p̄fcae N. qua-  
 tuor Acres Terre cum ptinen in C. a  
 quadam pecunie Summa eidem N. p̄  
 manibus solue apud C. emisset & idem  
 N. seisinam inde p̄fcae L. infra certum  
 tempus j̄d p̄terit liberare ibide assump-  
 sisset p̄dicte N. machinans ipsū L. in  
 hac parte callide defraudare Seisinam  
 Terre p̄ed infra tempus p̄ed eidem L.  
 non liberabit set idem N. Terram p̄ed  
 cuidam M. infra temp⁹ p̄d falso & frau-  
 dulenter vendidit & ipsū inde p̄offabit  
 Seisinam inde p̄fcae L. infra idem temp⁹  
 liberare recusabit ad dampnum ipsi L.  
 decem Librarum. Et unde idem L. p̄ J.  
 N. Altoz⁹ suū queritur quare cum idem  
 L. de p̄fcae N. quatuor Acres Terre ad  
 pertinen in C. decimo die Junij Anno  
 (Hc.) apud C. p̄ quadam pecunie Summa  
 videlt p̄ viginti libris eidem N. p̄e ma-  
 nibus solue emisset & idem N. Seisinam  
 inde p̄fcae L. infra certum tempus vi-  
 det ante festum (Hc.) tunc p̄or⁹ sequen-  
 & jam p̄terit liberare ibidem assumpsit  
 p̄dicte

predice A. machinans ipsum T. in hac parte callide defraudare Seisinam Terre dice infra tempus pdice eidem T. non habuit set Terram pdice cuidam M. infra tempus pdice scilicet decimo quinto die Junij dice Anno (sc.) falso & fraudulenter vendidit & ipsum inde prefat T. infra idem tempus liberare recusavit ad dampnum (sc.)

See *Rast. Ent.* 685. See *Hansf.* 51. *Read. Dec.* 5. *Clift.* 40, 41.

Note, This President favours much like an Action of Deceit, which Action is reduced (in this Treatise) to a proper Title.

For not performing Promise concerning an Agreement to build a House, &c.

Debond ff. **A**. B. queritur de C. D. in Custodi Mare (sc.) pro eo videlicet quod cum predice A. quinto die Septembris Anno Regni Domini Anne nunc Regini Angl (sc.) primo & diu antea fuisset & adhuc existit Cementarius Anglice a Mason. Cumque etiam postea scilicet die & anno pdice apud T. in Comu pdice in Consideratione qd predice A. ad special instantiam & requisitionem ipsius C. edificaret & erigeret p eodem C. parietes trium Domorum p porcis ac emundaret (Anglice would cleanse) & edificaret Muros earundem Domorum pro



Assumpfit. pro prefato C. idem C. assumpfit super  
 & prefat. A. adtunc & ibidem fideliter  
 promisit quod idem C. quinquaginta so-  
 lidos legis monete Angl. eidem A. cum  
 inde postea requisit esset bene & fideliter  
 solvere & contentare vellet Et idem A.  
 in facto dicit qd ipse idem A. postea scilicet  
 sexto die Octobris Anno Regni dice Dom-  
 Regine nunc primo supradicto apud A.  
 predice edificabit & erexit pro eodem C.  
 parietes pdice trium Domozum ac firmi-  
 liter emundabit & edificabit muros earun-  
 dem Domozum Cumq; etiam postea scilicet  
 decimo die Octobris Anno Regni dice  
 Dñe Regine nunc primo supradicto apud  
 A. predice quoddam colloquium habie-  
 moe fuit inter pref. A. & prefat. C. tam-  
 concernend. dibulsiōem & prostratiōem muro-  
 rum Domozum pdictarum ipsius C. ante  
 tunc erect. quam concernend. edificatiōem  
 erectiōem Domus Brasatiore vocat a Malt-  
 house, & Domus exterior vocat a Linny  
 or Dry-house, in locis in quibus parie-  
 tes pdice Domozum erect. fuerunt super  
 quo postea scilicet die & anno ulc. mentonat.  
 apud A. pdice in Com. pdice agreae fuit  
 inter predice A. & pfat. C. qd pdice A.  
 dibelleret & prostraret muros & parietes  
 pdict. trium Domozum antetunc ut prae-  
 fertur edificae & in locis in quibus muri  
 predict. erect. fuerunt edificaret pro eodem  
 C. unam Domum Brasatiorem (Anglice  
 Malt-house) & unam Domum exterior  
 vocat a Linny or Dry-house, pro eodem  
 C. ac pdict. Domum Brasatiorem & Do-  
 mum exterior cum scandulis Anglice

at, vel lapidibus Anglice Rags, tege-  
 et Anglice cover, quodam pdict' C. sol.  
 eret p̄fac M. p̄o labore suo in & circa  
 bulcon & p̄strakon muroꝝ p̄dictoꝝ &  
 ecton & edificaton p̄dict' Domus Bra-  
 atorie & Domus exterior 18 libras le-  
 galis Monete Anglie. Et superinde po-  
 ea scit die & anno ulc mentione apud  
 p̄dict' in consideraton qd p̄dice M. ad  
 dial instanc & requisitonem ipsius C.  
 per se assumpsisset & p̄fac C. adtunc &  
 om fideliter promississet ad perfoꝝmand  
 agreamentum p̄dict' in omnibus ex  
 arte ipsius M. perfoꝝmand secundum  
 p̄miam & effectum agreamenti ille p̄dice  
 C. super se assumpsit & eidem M. adtunc  
 ibidem fideliter promisit quod idem C.  
 p̄dict' agreamentum in omnibus ex  
 arte ipsius C. perfoꝝmand bene & fide-  
 liter perfoꝝmare vellet Et idem M. in  
 facto dicit quod ipse semper a tempore  
 conserconis agreamenti p̄dict' hucusq; pa-  
 ratus fuit \* & obtulit perfoꝝmare agre-  
 amentu p̄dict' in omnibus ex parte sua  
 p̄foꝝmandis p̄dictus tamen C. lepales p-  
 mission & assumpton suas p̄dictas mie-  
 turans sed machinans & fraudulenter  
 intendens ipsum M. in hac parte callide  
 & subdole decipe & defraudare nec p̄dice  
 quinquagine Solidos superius p̄mo  
 mentione nec p̄dice 18 Libras in agre-  
 amento p̄dict' superius specificae in tota  
 se attingentes ad viginti Libras & decem  
 Solidis aut aliquem Denar inde eide M.  
 solbit nec ipsum pinde aliquialiter con-  
 tentabit licet ad hoc faciend p̄dice C. p  
 p̄fac

**A**ssumpfit. p̄fat A. postea scilicet vicesimo die Martij Anno Regni dicte Dñe Regine nunc secundo apud L. p̄dict in Com̄ p̄dict requisit fuisse, sed idem C. p̄dict viginti Libras & decem Solidos eidem A. solvere aut ipsum p̄inde aliquantulum contemnere hucusque omnino recusat & adhuc recusat ad dampnū ipsius A. viginti Librarum. Et inde p̄duc Sextam, &c.

See *Hern.* 169. *Thef. Brevium* 88. *Clift.* 44. *Rob. Ent.* 10. *Winch. Ent.* 73, 93. 2 *Sand.* 346. *Read. Dec.* 7. 1 *Brown.* 28. *Bro. Rep.* 16.

\* In the like Action and *Non-assumpfit* pleaded, after a Verdict it was moved in Arrest of Judgment, for that the Plaintiff had not intitled himself to the Action; for the Agreement was, That he should do the Work and receive the Money for his Labour. And the Plaintiff does not say, he had done it, but only *Parat. fuit & obtulit*, nor shews that the Defendant hindered him; but it was held that the words *Paratus fuit, &c.* was a sufficient Averment after a Verdict, and Judgment was given for the Plaintiff, *Vide 2 Sand. Rep.* 350, 351, &c.



For not making a good Estate of Land  
sold, &c. according to Promise.

**Q**uare cum idem Def. p̄fat. Quer  
unum Messuagium & decem A-  
gas Terre cum p̄tin in A. p̄o quadam  
pecunie Summa eidem Def. p̄e mani-  
bus solue vendidisset idemq; Def. ad fa-  
cend eidem Quer sufficiend & secur stae  
de Messuagio & Terris p̄dict cum per-  
tin infra tres Menles jam elaps apud  
B. p̄misisset p̄dict tamen Def. sufficiend &  
secur statum de Messuag' & Terra p̄dict  
nie fecit set ill ei facere omio recusavic  
& adhuc recusat ad dampnum ipsius  
Quer' 100 l. &c.

See Presidents, *Placit. Gen.* 16. *Clerk's Ass.*  
264. 1 *Brown.* 12. 29. *Rob. Ent.* 33, 72. 2 *Brown.*  
2. *Thomp.* 23. *Hansf.* 55. *Vidian* 95. *Rob. Ent.*  
109. *Clerk's Man.* 78.

*Note,* That in the Consideration upon  
these Assumpsits, it must be observed,  
That the Consideration be valuable, im-  
porting some Gain to him that makes the  
Promise, or some Loss to whom 'tis made  
or both.

But the Proportion of the Value is not  
considerable, for a Penny or a Pint of  
Wine, will as much ingage a Promise as  
One hundred pounds, or more, *Hob. Rep.*  
*Pl.* 6. 10 *Co.* 76, 102. But in that Case  
the Jury will probably give Damage ac-  
cording to the Consideration: And if the  
Damages

*Assumpsit.* Damages be excessive, Relief may be had  
 in Chancery: See more after in *Express*  
*Assumpsit* touching Personal Estate.

There is also an Action [upon a *Nuisance* touching a Real Estate] implied by Law.

As for not repairing of Sea-Banks  
 Mounds, Fences, &c.

**L. ff.** **A.** Versus **B.** de plito quare  
**A.** idem **B.** Ripas Seweras  
 Fossas Maritima ipsi [pro Terra & Cen-  
 tis (videlicet unum Messuagium & trigine Acres  
 Terri) que tenet in **L.** in partibus Hollandie  
 pro saluatione earundem partium contra fluxum  
 & impetum Maris] contingendum facere  
 emendare & reparare debeat ipseque ac om-  
 nes alii tenentes Terrarum & Centozum  
 in eisdem partibus a tempore cuius (scilicet  
 Ripas Seweras & Fossata maritima  
 rata & portio tenure sue contingentia  
 saluatione partium predictarum contra huiusmodi  
 fluxus & impetum Maris fecerunt  
 emendari & reparari ac facere emen-  
 dare & reparare usi fuerint & consueverint idem  
**B.** Ripas Seweras & Fossas Maritima  
 ipsi (pro Terris & Centis que tenet in eadem  
 Villa) contingentia facere emendare  
 & reparare pro magno tempore (videlicet) a die  
 (scilicet) usque diem (scilicet) non curabit pro quod  
 aqua maritima pro defectu emendationis & re-  
 parationis Riparum Sewerarum & Fossatorum  
 suorum maritimarum Terram (videlicet centum  
 viginti Acres Terre ipsius **A.** in **S.** Hollandie  
 diversis

## Of Declarations.

113

Assumpsit.

beris bladis videlt Critico Pordeo Si-  
gine fabis Pisis & Abenis seminat in-  
dabit Et idem N. pñcu Terre sue  
es ad balenc &c. amitt unde dic quod  
teriozæ est & dampnū habet ad balenc  
mū & vigne libzard, &c.

Note, That if there be a Charge upon  
any Man by reason of his Tenure of House  
Land to repair any Bank, Bridge, Gut-  
ter, or private way, or the like, and he  
neglect it not, and hereby I have a special  
recovery, I may have an Action of the Case  
against him. *Vide Old Book of Entries, fol. 10.*  
So if one be bound by Tenure to repair  
the Sea or *Seavern* Banks, and he neglect it,  
and hereby my Ground is drowned, I may  
have this Action; but in this Case, if the  
loss may be by an extraordinary Inundation  
or Accident, it is said no Action lieth for  
it, *Vide 10 Co. 139.*

This sort of Action is set forth by way  
of Prescription, and cannot properly be  
called an *Assumpsit*, Express or Implied, for  
the words are, *Usi fuer', consuever', debuer',*  
&c.

Also this sort of Action lieth against a  
Man that refuseth to grind in the Lords  
mill according to Tenure. See the Presi-  
dent, Argument and Judgment in the 2d  
part of *Saund. Rep. fol. 112, &c.*

See President *de Sea Banks, Bro. Red. 67.*

For



Assumpsit.

For not repairing and making Inclosures

ff. **A.** B. attach fuit ad respondend  
 Et unde idem C. p G. H. Attoꝝ suum  
 queritur quod cum quidam W. R. seie  
 fuisset de quodam Clo Terre cum ptiā  
 in L. in Dñico suo ut de feodo Quodp  
 pꝛed A. filie seie fuisset de quodam alio  
 Clo Terre cum ptiā in L. pꝛed pꝛed  
 Clo pꝛed W. contigue adjacent in Dñico  
 suo ut de feodo. Idemq; L. & omnes  
 illi quoz statum idem A. het in pꝛed Clo  
 ejusdem A. a tempore cujus contrai me  
 moria hominum non existit usi fuer & con  
 suebet claudere pꝛedatum Clum ipsius A.  
 Clus pꝛedatum Clum ejusdem W. suffi  
 cienter cum muris & al clausuris ne abe  
 ria alicujus in pꝛedatum Clum pꝛed A.  
 depalced in pꝛed Clum ipsius W. cum  
 ptiā ad aliquod dampnum ibm facient  
 intrarent pꝛedatuloz W. de pꝛedato Clo ip  
 sius C. cum ptiā in forma pꝛedat seie  
 existend quinto die Decembꝛis anno Regni  
 Dñe Anne nunc Regine Angl, &c. primo  
 apud L. pꝛedat dimisit eidem C. pꝛedat  
 Clum pꝛedat W. cum ptiā habend &  
 occupand sibi & Assign suis a Festo S  
 Michaelis Archi tunc pꝛox' sequend p  
 durand termino septem annoꝝ plenā  
 complend' & finiend' virtute cujus dimis  
 sion idem C. in pꝛedat Clum pꝛedat  
 W. cum ptiā intrabit & fuit & adhuc est  
 inde possessionas pꝛedatuloz A. muros &

# Of Declarations.

115

Assumpit.

uluras Eli sui pzed versus predictu  
um eidem C. in forma predicta dimiss  
uos Annos pr' ante diem impetrato:  
his sui pzed scilicet primo die (Ec.) anno  
) dirupe & irreparae fore pmissit per  
ad averia intervenien predicta Cum ei  
n C. ut prefertur dimiss extra Cluni  
dictu A. herbam in eodem Clo predicta  
crescen in defectu sufficien clausure  
er Cla pzed depast' fueri & devastaver  
idem C. plicum Eli sui predicti p  
opus pzed amisit unde dic quod dete  
rac est & dampnu het Ec. Et inde p  
it Sextam, Ec.

Aliter.

uth n. **R.** p. nup de C. in Com pzed  
N. attach fuit ad respondi  
B. Gen de plito transgr sup Calum  
unde idem Willius p P. A. Attorn  
m querie quare cum predicta W. pri  
die Martij Anno Regni Dom Regid  
ac primo possessionae fuisset & adhuc  
sessionae existit de & in uno Clo Terre  
ae A. scituac in Paroch de Andover  
Com predicta Cumq etiam predicta A.  
dem primo die Martij Anno septimo  
radia & semp postea hucusq possesi  
ae fuisset & adhuc possessionae existit de  
in uno alio Clo sive pecia Terre vocae  
scituac in Com pzed & predicta Clo ip  
s W. contigue adjungend predicta  
& A. de sepul Elis sive Pecias Terre  
dicta sic ut prefere possessionae existend  
am W. die quod inc Cla sive Pecias  
Terre

Assumpsit.

Terre p̄dicta est quedam sepēs sive fensura  
 p̄dicta C̄la sive Pecias Terre separata  
 dividendū quam quidem sepem sive fensuram  
 p̄dicta Ricus & omnes Occupatores sive  
 Possessores p̄dicta C̄li sive Pecie Terre  
 vocat B. p̄ tempore existendū uli fuerit con-  
 sueverit & debuerit facere reparare & emen-  
 dare toties quoties necesse foret ne aliqui  
 averia in p̄dicta C̄lo ipsius A. vocat B.  
 vel C̄lo ipsius W. vocat A. possit ad her-  
 bam ibidem crescentem depascendū extra idem  
 C̄lm ipsius W. in p̄dicto C̄lm ipsius A. vel  
 extra idem C̄lm ipsius A. in p̄dicto C̄lm  
 ipsius W. intrarent & dampnū ibi  
 alteri facerent, p̄dict tamen A. p̄missor  
 non ignarus set machinans & malitiosus  
 intendens eundem Willm de toto p̄dicto  
 — & commodo C̄li sui p̄dicti vocat A.  
 totaliter dep̄ribare postea scilicet p̄dictū  
 die Martij Anno septimo sup̄radicti  
 abinde usque primū diem Aprilis Anno  
 Regni Dom̄ Regis nunc secundo p̄dicti  
 dictam sepem & fensuram in p̄dicto C̄lm  
 sive Peciam Terre ipsius A. vocat B.  
 p̄dict C̄lm ipsius W. vocat A. fore  
 manere & continuare ruinolam fractam  
 paratam & in decasu p̄ defectū reparatōis  
 inde rōne cuius Averia videlicet Equi  
 Boves, Porci & Bidentes disti-  
 rum p̄sonarum eidem W. ignoscere diversis  
 diebus & temporibus infra tempus p̄dictū  
 p̄ irreparatōem & decasū sepis & fensuræ  
 p̄dictæ extra p̄dict C̄lm ipsius A. vocat B.  
 in p̄dict C̄lm ipsius W. vocat A. intra-  
 verit & herbam ibi crescentem ad valentiam  
 sem libi depastū fuerit conculcaverit & con-  
 sumptū



ppter ac etiam Aberia videlicet Equi  
 oves, Vacce, Porci & Bidentes ipsius  
 p ipsum W. in pzed Clum ipsius W.  
 car A. ad herbam ibm tunc crescen  
 pascen poie extra idem Clum ipsius  
 voc A. in pzed Clum ipsius A. voc  
 intraver & abinde ad loca eidem W.  
 nitus ignoe errabant p qd idem W.  
 n solum toe pficuum & comodum Cl  
 pzed p toe tempus pzed verumetiam  
 veria pzed ipsius W. pretij decem libe  
 tra pzed Clum ipsius W. vocat A. p  
 fect' reparatō lepid & fensuratō pzed  
 ut pferre errad & vagrad totaliter  
 idit & amisit ad dampnū ipsius W.  
 adraginta libr. Et inde pducit Se  
 am, &c.

Note, That where one is bound by Pre-  
 scription to make his Hedge next to my  
 ground, and do it not, and thereby other  
 mens Cattle come into my Ground, or I  
 otherwise dampnified, I may have this  
 action for my Relief against him that should  
 make the Hedge, &c. And so for any such  
 thing which a Man is bound by Tenure  
 and Implication of Law to do; as to help  
 wares out of the Sea with a Crane or the  
 like, *Vide Old Book of Entries, fol. 3.*

See for Presidents for not repairing In-  
 closures and Fences, &c. *1 Brownl. 263.*

*Browne 28, 46, 66. Cl. Man. 185. Thomp.*

*5. Rob. Entr. 52, 87. Bro. Red. 20, 62.*

*Pro defectu reparation' riparum, &c. Clerks*  
*Man. 178. Reads Dec. 99. Clerks Aff. 210.*

*Assumpsit.* 2 Mo. Intr. 88. See after *Tit' Nufance*, 21  
 &c.

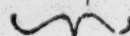
You will find more concerning Inclosure in the Pleadings to Trespass; as when upon an Action of Trespass for the Defendant's Cattel breaking the Plaintiff's Close, the Defendant may plead they came in through the Mounds of the Plaintiff for want of sufficient Repair, &c. But more of this in proper place.

*Note also*, That if the Lessor do not repair the Decays of Housing, having notice where he is bound to do it, [or pay the Subsidies, and such things as by Law he ought to do] but suffer it to fall upon the Lessee, or he be prejudiced by it, he may have remedy by this Action, 21 H. 7. 12. 22 H. 6. 14.

The next Presidents are upon a *Nonfufance*, upon an Exprefs Promise, touching a Personal Estate.

For not paying Money at several times upon a Bargain of Cattel, according to Exprefs Promise.

Cornub N. B. Versus E. &c. Et unde  
 idem B. p. J. G. A  
 toꝝd suum queritur quare cum qu  
 dam D. M. decimo die Maij Ann  
 Regni Dñe Anne nunc Regine Angl. &c.  
 pꝛimo



primo apud P. ad quatuor pingues  
Boves de eodem B. emens & eidem D.  
infra certum tempus tunc futurū delibe-  
rans p tringinta duabus libris videlt p  
triginti duobus solidis tunc & ibidem  
solvend & triginta libris & octodecim so-  
lidis inde resid postea scilt tempore deli-  
berationis earundem quatuor Bobium  
pfae D. fiend' eidem B. solvend' cum  
eodem B. barganizasset de quibus qui-  
dem triginta libris & octodecim solidis sic  
solvend' pzed' D. octodecim solidos eidem  
B. postea scilt vicesimo die Maij Anno  
supradicto apud P. pzed' satisfecisset pzed  
E. postea scilt eodem vicesimo die Maij  
anno (&c.) primo apud P. pzed in consi-  
deratione quod idem B. ad spialem in-  
stantiam & requisitionem pzed E. adtunc  
& ibidem delibabit pfae D. pzed' qua-  
tuor Boves sine ulteriori Summa ad-  
tunc juxta barganizationem pzed' p eis-  
dem solue sup se assumpsit & eidem B.  
adtunc p ibidem fideliter pmisit ad sol-  
vend eidem B. tringine libras de pzed' tri-  
gine & duabus libris resid tunc insolue  
modo & forma sequen ( videlt ) quatuor  
libras vel quinq libris inde infra duos  
dies vel tres dies tunc prox' sequen &  
resid earundem tringine librarū infra qua-  
tuordecim dies proximū sequen pzed tamen  
E. pmissionē & assumptōē suas pzedia-  
rie curans set machinans & intendens  
plum B. de pzed' triginta libris resid  
callide decipere & defraudare eadē tri-  
gine libras eidem B. juxta pmissionem



Assumpfit.

**E** assumptionem suam pdictam ( licet ad hoc p eundem B. postea scilicet primo die Augusti anno Regni Dñe Anne nunc Regis Angl &c. primo & sepius postea apud pdictam requisitus fuisset ) non solvit ne aliquammodo contentabit set illi ei solvere hucusque contradixit & adhuc contradicit ad dampnum ipsius B. quinquaginta librarum. Et inde pducit Sextam &c.

See some Presidents, 1 Bro. 14, 29. See vendition' Spadonis.

*Simile sur vendition' Bovium.* Id. 40. Bro. Vad. 3. Clif. 62, 65, 90. De equo, &c. Bro. Red. 23. Clerk's Man. 92, 122. Clerk's Aff. 230. 2 Mo. Intr. 77. 2 Saund. 122. See after.

Another for not paying Money upon an Expres Bargain and Promise for Cattel sold.

**Surre ss. J. C.** nup de (&c.) attach fuit J. ad respond R. B. de plito quare cum pzed J. (tali die anno & loco) in consideratione quod pzed R. ad special instanc & requisitionem pzedicti J. bargainizasset vendidisset & deliberasset eidem J. quindecim Oves (vocae Weathers) p undecim libris & quinq solidis und al Ovem p tresdecim solidis decem al Oves p quinq libris sex solidis & octo denar, duos Juvencos p decem libris & decem solidis & duos al Juvencos p duodecim libris super se assumpfit & ei-

in R. adunc & ibm fideliter promissit Assumpsa  
 od ipse pdice J. pdice septem denar  
 inmas in toto se attingend ad trigine  
 dem libras & quatuordecim solidos &  
 o denar eidem R. cum inde postea re-  
 sisse esset bene & fideliter solvere & con-  
 tate veller. Et licet pdice J. postea  
 it (tali die anno & loco) solvit & satis-  
 eit eidem R. duodecim libr & octo solid  
 pdice trigint nobem libr & quatuorde-  
 m solidis & octo denar pdictus tamen  
 . promission & assumpton suas pdice  
 load 27 l. 6 s. 8 d. pdice 39 l. 14 s. 8 d.  
 fid mie curans set machinans & frau-  
 alene intendens ipsum R. de pdice 27 l.  
 s. 8 d. callide & subdole decipere &  
 fraudare pdict 27 l. 6 s. 8 d. eidem R.  
 ket ad hoc p eundem R. postea (tali die  
 anno) apud C. pdictam adinde requi-  
 e fuit iuxta pmission & assumpton suas  
 dice non solvit seu aliqualliter conten-  
 abit set ill ei (&c.) ut in al.

Upon a Promise to pay Money for  
 Goods sold on Request.

**C.** **A.** B. nuper de C. in Com pd Geo  
 A. Attach fuit ad respond C. f. de  
 plito tnsgr super Calum, &c. Et unde i-  
 dem C. p B. Attornd suum queritur qua-  
 te cum pcedice C. decimo die Septembzis  
 Anno Regni Dñe Regine nunc primo a-  
 pud I. ad special instanc & requisiton  
 pdice A. vendidisset & delibasset eidem  
 A. unum Equum color nigr precij deceni  
 libr

*Assumpsit.**W*  
*Pretii of*  
*live things.*  
*Ad valent*  
*of things*  
*without*  
*life.**Request.*

libre legalis monete Anglie unum Equum & unum Frenum, &c. [naming the Goods] ad valent centum solidorum monete Anglie p̄dictus A. in conspectu eodem decimo die Septembris anno p̄dicti supradicto apud L. p̄dice sup se assumptum & eidem C. adtunc & ibidem fideliter promissit qd ipse p̄dice A. p̄dice sepe ratum sum in toto se attingendū ad quindecim libre legalis Monete Angl̄ eidem C. cum inde requisie esset bene & fideliter solvere contentare vellet p̄dice tamen A. promissionem & assumptionem suas p̄dice mie rang let machinans & fraudulente intendens ipsum p̄dice C. in hac parte calledere & subdole decipere & defraudare p̄dictis quindecim libre secundum promissionem & assumptionem suas p̄dictis eidem C. nondum solvit aut aliquatenus contentabit licet ad hoc faciendū p̄dice A. vicesimo die Septembris Anno p̄dicto supradicto & sequens postea apud L. p̄dice p̄ eundem C. requisie fuit sed ille ei solvere hucusque recusavit & adhuc recusat ad dampnum ipsius C. 20 l. Et inde producit Sextam.

Upon a Promise to pay for Goods at a  
Day certain, &c.

¶ **Q**uare cum p̄dictus A. primo die Augusti Anno Regni Dñe Regine nunc primo apud C. in conspectu quod p̄dice C. vendidisset & deliberasset p̄dictas A. diversas merchandiz videlicet centum Librarum ponderis Sacchari, &c. (naming the Merchandize)



handize) ad valenc<sup>e</sup> centum Librarum Assumpfit.  
 galis Monete Angl<sup>i</sup> super se assumpfit  
 eidem C. ad tunc & ibidem fidelie pro-  
 sistit quod ipse pdice A. pdice centum  
 libi pro Merchandiz<sup>z</sup> predice eidem C.  
 super decimum diem Septembri tunc pr<sup>o</sup>  
 quent bene & fideliter solvere & conten-  
 ere vellet pdice tamen A. pmission<sup>e</sup> & No Request  
 sumpton<sup>e</sup> (Ec. ut antea) pdice centum See the  
 bi eidem C. secundum pmission<sup>e</sup> & al- Rule for  
 umpton<sup>e</sup> suas pdice nondum solvit sed Notice and  
 ei solvere oio recusavit & adhuc recu- Request,  
 at ad dampnum ipsius C. 120 l. Et in- postea.  
 e pdue Sextam, &c.

See some Presidents upon not paying  
 Money for Goods sold, 1 Sand. 70. Hans.  
 6, 60. Vidian. 96. Clerk's Man. 61, 91, 95.  
 Clif. 64, 67, 75, 88. Read. Dec. 42, 66.  
 Clerk's Ass. 184, 230.

Solvere tant. pro lateribus quant. vendit.  
 mer. in Com. 1 Bro. 28.

Pro carbonibus ad pretium Mercati ad Bil-  
 lingsgate, Clif. 908.

De denar. promiss. in excambio, Vidian. 53.  
 Clif. 71, 72, 73, 90.

Solvend. cum ux. Def. peperit prolem. Id.  
 62. Brownl. 45.

Solvend. quer. si J. S. deficeret, Cl. Man.  
 112.

Solvere secundum optim. prejum, Clif. 58.

For not delivering Goods according to  
Express Promise.

It, **A.** B. versus C. f. — Et unde  
idem A. p. C. D. Attor. suum  
queritur quare cum p. dice C. 26 die Ju-  
nij Anno Regni Dom. Regine nunc p.  
mo apud G. barganizasset & vendidisset  
p. fac A. quinquaginta caretas boni  
merchandizabilis feni secundum ratam  
quinquagint' solis pro qualibet caretis  
inde attingend' in toto secundum ratam  
ad 125 l. p. dice C. eodem 26 die Junij  
apud G. p. dict' in cons quinque solidos  
ei p. p. dict' A. ibi in manibus solut' &  
125 l. p. fac C. p. p. dice A. super delibera-  
tione p. dict' solvend' super se assumpsit &  
eidem A. ad tunc & ibidem fidelit' p. misit  
quod ipse p. dice C. p. dict' quinquaginta  
caretas feni eidem A. ad vel ante deci-  
mum quintum diem Octob' tunc p. se-  
quend' apud tunc Domum Mantonal  
ejusdem A. in G. p. dict' deliberare vellet  
p. dict' tamen C. p. missionem & assumptio-  
nem suas p. dict' mie curam sec machinans ip-  
sum A. in hac parte callide & subdole de-  
cipere & defraudare p. dict' quinquaginta  
caretas feni seu aliquam inde parceret i-  
dem A. (licet ipse idem A. semper parat'  
fuit super delibera-  
tione p. dice quinquaginta  
caretas feni in forma p. dict' ad  
solvend' p. fac C. p. dict' 125 l. videlicet quin-  
quaginta solis p. qualibet caretis p. d.  
caretis feni secundum promissionem &  
assump-

*Nota, A*  
Declarati-  
on may be  
bad for  
miscount-  
ing or mis-  
casting,  
*Stiles, 214.*

## Of Declarations.

125

Assumpsit.

Assumpsit (pice) non deliberabit set eas  
in 50 caretas feni eidem A. hucusq;  
libare recusabit & adhuc recusat ad  
impnum ipsius A. 200 l. Et inde pro-  
c. Sextam, &c.

See some Presidents, 1 Bro. 30, 67. *Thomp.*  
Clif. 91, 93, 94, 96, 97, 938.

*Vers. Carrier, &c. pro bonis ei deliberat. car-*  
*nd. Cl. Ass. 260. vide postea Pl. Gen. 60.*  
Bro. 30. Bro. *Vod.* 11.

*Simile super excambio, Cl. Ass. 199.*

*Pro non deliberatione monet. &c. 1d. 209.*

3.  
*Simile de equo, 2 Mod. Inrand. 53.*

*Simile de tritico, &c. Clif. 96, 97, 99.*

### —Rule of Notice and Request, &c.

In Declarations upon many of these  
Assumpsits, it is necessary to shew a No-  
tice, Request or Demand, as the Case re-  
quires.

For which we are to understand that  
the Rules are these.

1. Where the matter to be done doth  
rest in the equal knowledge of the Parties  
what is to be done, there no Notice need  
be given by the one Party to the other  
what is done. Notice;

2. But where it is more in the know-  
ledge of him to whom it is to be done,  
there it is necessary that he give the other  
notice what is done.

3. Where



Assumpsit.

3. Where a Duty doth arise upon a private Act of the Plaintiff, there notice must be given of it before the Action can be brought; for else the Breach may be so private, that the Defendant by no possibility can know it without notice.

4. Where a thing is to be done by a Stranger, and lies as much in the knowledge of the Defendant as of the Plaintiff, the Plaintiff is not bound to give notice to the Defendant.

5. In Case where a Penalty is to be recovered for the not doing the thing, there notice must be given, 1 Cro. 34, 385. 2 Cro. 492. 1 Bulst. 12, 13. Hob. 51. Hutt. 80.

6. When it rests upon a Matter to be done between the Parties themselves, notice is to be given to the Party, who is to make a Payment of Money, upon an Act to be done by the other to whom the payment is to be made; but otherwise where 'tis to be done by a Stranger, for there he is to take notice at his Peril.

Now as Contracts are said to be Executed, and Executory.

1. Executed, as where you promise to pay me 20 l. in recompence of a House I have built at your Request; or where you promise to sell me your Horse for 10 l. laid down and received.

2. Executory, as where all, or part of the thing agreed upon, is to come; as that if you shall build me a House, or that if you bring me in so much Corn by such a day, I shall pay you so much Money, or the like.

In the (1.) Contract no notice need be given : But in the

(2.) Notice muſt be given and alledged that you have built the Houſe, or that you have delivered the Corn, &c. See 3 Bulſt. 44.

The Rule for Request and Demand is this.

1. Where Money is to be paid, or other thing to be done upon Request, there muſt be a precise Request alledged.

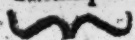
2. In all Caſes where the Ground of the Action is for a Debt, there the Law induceth the Promise, and the Request is not iſſuable, nor parcel of the Conſideration ; ſo that where there is a Right to a Duty in the Plaintiff before, there the general *Licet ſapius requiſit*, &c. is ſufficient ; but where the Request makes it a Duty, there the Request muſt be precisely alledged.

3. Alſo where the Action is founded upon a Collateral Matter, and not for a meer Debt or Duty, there the request is iſſuable, and ought to be expreſſy alledged.

4. That where a Request is to be ſet forth, there it is material and traverſable, and therefore the time and place thereof muſt be certainly ſet forth.

And ſo in all Caſes where Notice is to be given, or Request or Demand to be made, in Caſe to produce and warrant the Action, the ſame muſt be ſet forth

Assumpfit.



to be made and done accordingly, 1 Cr. 179, 280, 281. 2 Cro. 183, 652. 2 Bulst. 229. 3 Bulst. 297, 326. Telv. 66, 67. Leon. 73. Pl. 159, 167, &c.

These Rules being premised, the precedent and following Presidents may be the better understood.

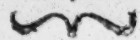
The next Presidents are for a *Nonfeasance* implied by Law, touching a Man's Personal Estate or Person.

*Nonfeasance implied.*

Against one that intreated me to be bound for him, and doth not save me harmless.

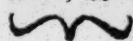
**A.** *W. queritur de C. D. in Custod. Martij. Et. eo videt quod cum predictus C. (tali die & anno) apud (Et.) in consideratione quod predictus A. ad tunc ibi ad spialm instantiam & requisitionem ejusdem C. deveniret tunc & obligaretur eidem L. M. p quoddam scriptum suum obligatorium in deba juris forma faciendū sigillandū & ut factum suum deliberandū in trigint Libris legalis Monete Anglie sub Condicione tamen quindecim Libris ad solvendū filis legalis Monete eidem L. super decimum diem Martij tunc presequendū apud sive in tunc domo mansorū si predictus L. scituat in (Et.) per predictos A. & C. aut alterum eorum faciens super se assumpsit & eidem A. ad tunc & ibi*





It (tali die & anno &c.) apud, &c. fidelie  
nisiit quod ipse idem C. p̄dix' quindecim  
Libe eidem L. sup p̄dix' decimū diem  
Martij in exoneratione p̄dix' scripti obli-  
gatorij solueret & p̄dix' M. ex tunc postea  
& concernend scriptū obligatorij p̄dix'  
salvū custodiret & indemnificaret  
idem M. in facto dicit quod ipse p̄-  
missioni & assumptioni ipsius C. p̄dix' si-  
m adhibens postea scilicet eisdem die &  
anno supradix' apud (&c.) ad specialem  
stantiam & requisitionem ipsius C. si-  
cū cum p̄dix' C. & p̄ p̄prio debito p̄dix'  
& C. devenit tene & obligat p̄fac M. p̄  
modum scriptū suum obligatorij in  
libita juris forma fact' sigillat & ut factū  
eum deliberat in p̄dix' triginē Libe sub  
inditione tamen p̄ solutione p̄dix' quindecim  
Libe eidem L. sup p̄dix' decimū  
Martij modo & forma p̄dix' faciendū  
p̄dix' tamen C. p̄missionem (&c.) mīe eu-  
ans sed machinans (&c.) defraudare  
p̄dix' quindecim Libe eidem L. sup p̄dix'  
decimū diem Martij secundum for-  
mam & effectum conditionis p̄dix' non sol-  
vit aut p̄fac L. p̄ eisdem hucusq; aliqua-  
te contentabit nec eundem M. de & con-  
cernend scriptū obligatorij p̄dix' salvū  
custodivit & indemnificavit licet ad hoc  
faciendū idem C. postea scilicet (tali die &  
anno & loco p̄dix') p̄ eundem M. requisitū  
fisset p̄ quod & p̄ eo quod p̄dix' quindecim  
Libe p̄fac L. sup p̄dix' decimū diem  
Martij secundū formam & effectum con-  
ditionis p̄dix' insoluit fuer' p̄dix' L. postea  
scilicet (tal termino & anno) in Cur (&c.)

Nonfe-  
fance, &c.



coram (Ec.) implacitabit ipsum A. de  
sup p'dict' scriptum obligatozium de p'dict'  
trigine Libr ac p'sticum ill in tantum p'  
secue fuit quod idem A. non solum i. 7  
105. de & sup scriptu obligatozid p'ed c  
dem T. solvere coactus fuit verumetiam  
diversas denar summas in & circa defen  
toz lege p'dicte expendere & erogare com  
pullus fuit Ad dampnu ipsius A. 20  
Et inde p'duc' Sect' Ec.

An Action brought by an Executrix upon  
on a Promise made to the Testator to  
save him harmless.

**N. J. S. & A.** Ur' ejus Executrix testis  
**J. P. J.** queruntur de **C. D.** in Ca  
suo Mar' Ec. p eo videlicet cum quod p'  
P. in vita sua scitit primo die Octobris  
Anno Regni Dom Anne nunc Regi  
Anglie Ec. primo apud P. ad speciale  
instantiam & requisitionem p'ed C. nec  
non p debito ejuldem C. p scriptu suu  
obligatozium Sigillo suo sigillat' firmu  
cum eodem C. conjunctim & divisim tene  
batur & obligabatur cuidam R. G. de  
T. in Com S. Mercet in decem Libris  
legalis Monete Anglie solvend eidem R.  
aut suo certo Attornato seu Executoribus  
suis in Festo Natalis Dni quod fuit in  
Anno Domini 1692. Idem C. postea  
scitit p'dict' primo die Octobris Anno (Ec.)  
apud P. p'dict' p'lat P. in vita sua fide  
lie p'misit & sup se assumpsit quod idem  
C. eundem P. Heres Executor & Assignatus  
suo

Nonse-  
fance, &c.

os erga p̄fac̄ R. & Executores suos de  
p̄ p̄d̄ia' decem libr̄ & qualibet inde par-  
lla ac de & p̄ solut̄one p̄red' decem libr̄  
qualibet inde parcella exoneraret & in-  
mp̄d̄ conseruaret p̄red' tamen C. p̄mil-  
nem & assumpt̄onem suas p̄formare &  
implere mie curans p̄red' decem libr̄ aut  
quam inde parcellam p̄fac̄ R. vel Cre-  
tor seu Assign̄ suis non solvit aut ip-  
m P. Executor seu assign̄ suos de &  
p̄red' decem libris aut de & p̄ solut̄one  
p̄red' decem libr̄ aut aliqua inde parte  
ga p̄fac̄ R. seu Executores suos iuxta  
missionem & assumpt̄onem suas p̄d̄ia'  
cet ad illud p̄ p̄fac̄ P. in vita sua se-  
ius requisit̄ non exonerabit nec indemp-  
nem conseruabit nec in aliquo p̄ eisdem  
recompensabit p̄ quod idem P. in vita  
aa decem libr̄ p̄ p̄fac̄ C. p̄d̄ia' R. apud  
e. p̄d̄ia' solvere & satisfacere p̄ debitam  
gis d̄ia' Dom̄ Regine Anglie formam  
pactus & compulsus fuit p̄ quod p̄d̄ia'  
D. in vita sua non solum credentiam  
nam quam ipse apud diuersos subditos  
d̄ia' Dom̄ Regine quibus ipse in decem  
libr̄ indebitae fuit & quibus ipse easdem  
decem libras sub spe solut̄on̄ inde ad cer-  
tos dies jam p̄teritos solvere p̄misit a-  
nisi Verumetiam p̄red' Executrix p̄d̄ia'  
D. diuersa debita & legae ipsius P. in  
testamento ejusdem P. content̄ que ad  
certos dies jam p̄teritos solvi debuissent  
solvere contentare & satisfacere nequit  
in retardat̄onem execut̄onis test̄i p̄red' ac  
ad dampn̄d̄ ipsor̄ J. & A. uigine Vi-  
p̄ard. Et inde p̄duc̄ Secam, &c. Et



Nonfe-  
fance, &c.

~ pferunt hic in Cui literas testamentarias  
pred' P. p quas satis liquet Cui hic ip  
sam A. fore Executricē Testi pred' C  
inde here Administraconem &c.

See for Presidents *de indemnem confes*  
*vand'* as Security, *Ash. 37. 1 Brownl. 213*  
*240. 3 Brownl. 71. 1 Browne 40, 68. Bro*  
*Met. Novissima 8. Bro. Red. 27, 39. Read*  
*Dec. 59. Hansf. 45. Bro. Vad. Mecum 4, 32.*

Simile de Manucaptione, *3 Brownl. 103*  
*Hern 121. Rob. Entr. 92. Clif. 79. Clerk*  
*Aff. 215, 216. Clerk's Man. 74.*

Simile super Emption' & Vendition  
*Clif. 44. 1 Brownl. 32.*

Simile pro Vic' super Execution' Ca' Sa  
&c. *Hern 120.*

*Note,* If one in Consideration, that  
will be bound for him, promise to save me  
Harmless, this is a good Consideration and  
Promise; so if I promise to another in  
Consideration that he will be bound to my  
Friend, I will save him harmless, this is  
good.

And if *A.* be indebted to *B.* and *A.* pray  
*C.* to be bound to *B.* for the Debt, and  
that he will give him a Counter-bond, and  
*C.* is bound to *B.* and after *A.* refuseth to  
give *C.* a Bond, *C.* may have his Action  
against *A.* for it is a good Consideration,  
as much as *C.* is liable to the Debt.

Against

gainst a Sheriff for not Arresting the  
Defendant, being in his presence,  
upon a *Cap' Utl'* delivered to him by  
the Plaintiff.

vids ff. **M**. G. nup de &c. Die Com  
nd' O. S. qui tam p Domina Regina  
nam p seipso sequitur de plito transgi  
p Casum &c. Et unde idem O. qui  
m, &c. p C. F. Attoznd suum queritur  
mare cum quidam D. D. nup scilicet  
quinto die (&c.) apud W. p quandam  
Billam suam Obligatoriam Sigillo  
to sigillae gerend dar eisdem die & anno  
agnovisset se debere eidem O. 26 l. 5 s.  
d. legalis Monete Anglie solvend ei-  
dem O. ad vel ante decimum diem Maij  
anc ppor' sequend & ad eandem solutio-  
nem bene & fideliter faciend obligasset se  
ered' & Executores suos in 51 l. 10 s.  
d. firmiter p eandem Billam quas  
uidem 26 l. 5 s. 4 d. pdia' D. eidem O.  
ad vel ante pdia' decimum diem Maij  
on solvit secundum formam & effectum  
Bille pdia' p quod ac vigoze Bille illius  
dia' 52 l. 10 s. 8 d. eidem O. forisfact'  
ebener pdia'usq; D. de 52 l. 10 s. 8 d.  
nde eidem O. postea satisfecit Cumq;  
dia' D. in 50 l. de pdia'is 52 l. 10 s. 8 d.  
esid' eidem O. in forma predicta inde-  
bitae existend idem O. p citiozi recupa-  
tione earundem 50 l. remanend virtute

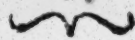
Nonfe-  
fance, &c.



Bille p̄dice versus p̄fæ D. nup in  
 dicta Dom̄ Regine nunc coram Iustice  
 ipsius Dñe Regine apud Westm̄ implē-  
 tasset p̄v̄ D. p̄ nōen (Æ.) (al̄ dicta, &c.)  
 de p̄lito quod redderet ei p̄dicta 50 l. quan-  
 ei tunc debuit & injuste detinuit idem  
 D. p̄ eo quod non ven̄ coram eisdem  
 Iustice dicta Dom̄ Regine apud Westm̄  
 ad p̄fæ terminum eidem O. responsu-  
 secundum legem & consuetudinem Regni  
 dicta Dñe Regine in exigend' p̄oie fuit  
 set ad utlagand in Civitate dicta Dñe Re-  
 gine de W̄istol Et ea octone postma-  
 dum scilt die (Æ.) anno (Æ.) utlagand  
 existit Cumq; etiam idem O. super ut-  
 lagaria p̄dicta postea scilt Termino Sc̄  
 Hillar videlt 24 die Januarij anno (Æ.)  
 p̄ citiozi obtentōne debiti sui p̄dicta p̄-  
 secue fuisset extra Curiam dicta Dñe Re-  
 gine de Banco hic quoddam h̄vebe dicta  
 Dñe Regine nunc de capiend p̄dicta D. ut  
 ut p̄fertur utlagat tunc Die Com̄ C. d̄-  
 recta p̄ qd̄ quidem h̄ve eadem Dñe Regine  
 p̄fæ tunc Die Com̄ C. p̄cepisset qd̄ non  
 omitteret p̄pter aliquam libertatem (Æ.)  
 [recite le Capias Utlagatū] Et quod  
 tunc heret ibi h̄ve illud Ac licet idem O.  
 postea & ante p̄dictū retozū ejusdem h̄ve  
 scilt die (Æ.) anno (Æ.) apud H. p̄dictam  
 in dicto Com̄ C. p̄dice h̄ve de Capiend Ut-  
 lagat p̄fæ M. (ad tunc Die dicta Com̄ C.  
 existend) deliberabit in forma juris ex-  
 quend licetq; p̄dicta D. (codem tempore  
 delibatonis h̄vis p̄dicta p̄ eundem O. p̄dicta  
 M. sic ut p̄fertur facta apud H. p̄dictam  
 in dicto Com̄ C. fuit in p̄sentia & con-  
 soztio

Delivery of  
the Writ to  
the Sheriff.





etio p̄dice M. (tunc Vic ejusdem Com  
existē) ac dictus M. p̄fac D. virtu-  
his p̄dicti adtunc & ibm cepisse & ar-  
tasse potuit licetq; etiam idem O. ad-  
ne & ibidem p̄ced D. in p̄sentia & con-  
silio p̄dicti M. sit ut p̄fertur existē dicto  
O. ostendebat ac ipsum M. adtunc & ibm  
inquisivit quod ipse idem M. p̄dictum D.  
virtute ejusdem h̄is capet & arrestaret  
et tamen M. Vic p̄ced Com C. sic ut  
p̄fertur existē Officij sui Vic in ea parte  
h̄is ac sacrum suum p̄ vera & iusta exe-  
cutione Officij sui p̄dicti dict' Dom Regine  
nunc in ea parte p̄stie m̄ie curans let ma-  
nans non solum dice Dominam Re-  
ginam nunc de eo quod ad ipsam Dñm  
eginam p̄tinebat oc̄sione Ulagarie p̄ced  
fraudare & Curiam illam illudere be-  
metiam eundem O. in p̄secutione sc̄e  
e p̄ced maxime retardare p̄dict' D. sic ut  
p̄fertur Ulagae ac in p̄sentia & consilio  
suis M. existē virtute h̄is p̄dict' ca-  
ere & arrestare penitus recusabit ac p̄ced  
D. virtute h̄is p̄ced non cepit & ar-  
stabit secundum exigentiam h̄is p̄ced  
et nihilominus sup̄ h̄evi p̄ced ad p̄dict'  
quinq; septimanas Pasche coram Justic  
ia Dñe Regine nunc apud Westm falso  
fraudulenter retornabit quod p̄dict'  
D. non fuit indene in Balliva sua in  
dict' Domine Regi re nunc contemptum &  
Curie sue p̄dictae illusionem & deceptio-  
nem manifestam ac ipsius O. dampnum  
non modicum & gravamen ac sc̄e sue  
p̄dictae p̄ recuperatione & obtentione de-  
icti sui p̄dicti dilationem & retardationem

Nonfe- manifestas Unde idem Q. dicit quod  
fance, &c. ipse deteriorat est & dampnum habet ad  
lenc 50 l. Et inde pducit Sextam, &c.

This President has something also of a  
*Misfeasance.*

See for Presidents of this Nature against  
Sheriffs, *Thomps.* 38. *Rob. Entr.* 102. 3 Br.  
40.

Against an Attorney for not proceeding  
according to Instructions.

London ff.

**A.** Queritur de J. h. Gen uno Attoz in Cur  
Dñe Regine coram ipsa Regina hic in  
Cur in ppria Persona sua p eo videlicet  
quod cum quidam R. S. primo die Ja-  
nuarij Anno Regni Dñe Anne nunc Re-  
gine Anglie, &c. primo apud London bi-  
delt in Parochia Sancti Andree Holborn  
in Warda de Farringdon extra ducent  
libi de denar ipsius A. pprium ad usum  
prefat R. S. convertisset & disposuisset  
predictus A. p recuperatione dampnorum  
suorum p ipsum ratione inde sustentat  
postea scilicet vicesimo secundo die Janu-  
arij Anno primo supradicto levabit quan-  
dam querelam suam versus predicta R.  
S. in Cur Domine Regine de Recordo  
tunc tento coram W. G. Ne tunc una  
Die Civitatis London in Computo-  
rio suo communie vocato le Poultrei-Com-  
pter scituat in Parochia Ste Mildrede in  
Warda

Bartholomae de Cheap London secundum Con-  
 stitudinem ejusdem Civitatis a tempore  
 ejus contrarii memoria hominum non  
 existit in placito tunc super Casum ad  
 dampnum quingene librarum Et ad tunc  
 ibi retinisset ipsum predictum J. tunc  
 adhuc existentem unum Attornat ejus-  
 dem Curie essent Attornat ipsius M. ad  
 consequendum querelam predictam per predictum M.  
 versus predictum R. S. ad comparandum per predictum  
 J. ad quemlibet diem querelle predictae (pen-  
 tente querela predicta) Et idem M. ad tunc  
 ibidem per manibus solvisset predictae J.  
 quos solidos Et sex denarios legalis Monete  
 Anglie Et promississet solvere predictae J. omnia  
 illa iusta feoda Et demanda quaecumque que  
 idem J. in eadem querela per prosecutionem  
 querelle predictae debet essent Idemque  
 J. ad tunc Et ibi suscepisset super se  
 prosecutionem querelle illius ac superinde  
 virtute querelle illius idem R. S. postea  
 scilicet eodem vicesimo secundo die Janu-  
 arij Anno primo supradicti per quendam  
 P. W. ad tunc unde servient dicti Die ac  
 unum Ministorum Curie illius capti Et  
 arrestiti sunt Et in prisona dicti Dñe Regis  
 de le Poultrei Compter predictae sub Custod  
 ejusdem Die virtute ejusdem querelle de-  
 tenti sunt unde idem J. ad tunc Et ibidem  
 notitiam habuit Et licet idem M. a tem-  
 pore retentionis predictae J. fore Attornat ip-  
 sius M. in prosecutione querelle predictae sem-  
 per paratus fuit solvere eidem J. omnia  
 iusta feoda Et demanda quaecumque per pro-  
 secutionem querelle illius Et durante Im-  
 prisonamento predictae scilicet predictae vicesimo  
 secundo



secundo die Januarij, (Ec.) apud Londoniam predictam in predicta Parochia Sancti Andree Holborn in Warda de Farrington extra informasset eundem J. ad narrandum de & super premissis predictis per ipsum predictum A. versus prefatum R. S. super querela predicta in Curia predicta predictus tamen J. Officium suum Attornati in hac parte minime curans sed machinans eundem A. in hac parte callide & subdole decipere & defraudare querelam ipsius A. non persecutus fuit nec aliquam narrationem super premissis per eundem A. versus predictum R. S. in eadem Curia imposuit seu imponi causabit sed prosecutionem querelle predicta in tantum neglexit quod ratione inde predictus R. S. ab Impersonamento suo per causam predictam per negligentiam & defectum narrationis predicta & prosecutionis querelle predicta per predictum J. postea scilicet decimo nono die Maij Anno Regni Dne Regine nunc secundo per Curiam predictam secundum consuetudinem Civitatis predicta totaliter relaxatus & acquietatus fuit absque aliquo Ballio aut Manu-  
 captionem per ipsum in ea parte inventum ac immediate postea idem R. S. seipsum in loca eidem A. incognita retraxit & elongabit ita quod ipse idem A. totum remedium suum pro recuperatione dampnorum suorum predictorum ob defectum & negligentiam ipsius J. totaliter perdidit & amisit ad dampnum, &c.

This President also hath a Charge of Negligence.

See

## Of Declarations.

19

See the like Presidents, *Vidian. 60. Clerk's* Nonfe-  
*J. 278. 1 Brown. 33.* sane, &c.

Many of the Presidents which I find un-  
 der the Title of *Nonfeasance*, have a near  
 relation (according to our former division)  
 to *Misfeasance* and *Negligence*; therefore we  
 will proceed on that Head (being the next  
 in order) after we have looked into a few  
 more Presidents of *Implied Assumpsits*, as  
*quantum Meruit, quantum Valebat, Indebitat*  
*Assumpsit, &c.* and some others relating to  
 Executors and Administrators.

Concerning Implied Actions and Promi- *Quantum*  
 ses, it is futher to be observed, That where *Merit.*  
 I retain a Man to do Work for me, it is im-  
 plied by Law, that I should pay him for it,  
 although I never promised it; and in this  
 Case the Law supplies the Promise; as for  
 a Carrier for carrying Goods, and so for  
 a Smith for shoing a Horse, &c.

An Innkeeper may bring this Action *Quantum*  
 against a Guest or Traveller that shall re- *Valent.*  
 fuse to pay for his Provision and Entertain-  
 ment, upon an *Implied Assumpsit*, by a *quan-*  
*tum Valebat.*

So may an Hostler against one that does  
 not pay him for Horse-meat.

So may any Tradesman for Goods and  
 Wares sold, &c.

So a Taylor may have an Action upon *Quantum*  
 an Implied Promise for making Garments, *Merit.*  
 upon a *quantum Meruit.*

So may any Artificer or Labourer have *Quantum*  
 the like for any Work done for another, *Valbat.*  
 and if he hath also found Materials, he  
 may also lay a *quantum Valebat.*

And

Quantum  
Meruit

*Indebitatus*

*Assumpsit*

*Insimul*

*Computasset.*

*set.*

And where one is legally indebted unto another, for any matter or thing as afore-  
said, the Law creates an *Indebitatus Assumpsit*.

And if the Parties have reckoned or accounted upon the matter, an Action lies upon this Account by an *Insimul Computasset*.

And these sort of Actions may either be laid singly, or else three, four or more of them may be joyned and laid in one Declaration.

And as they may be brought by, or against the Parties themselves, so they will lie for, or against Executors and Administrators upon the Testators Contracts, as also upon their own Agreements.

### *Quantum Meruit.*

For Curing the Defendant of a Wound.

**W** A. queritur de R. S. in Custos  
. Mare (et.) p eo videlicet quod  
rum pcedice W. (tali die & anno) apud  
R. in Com pcedice ad spial instanc & re-  
quisitionem ipsius R. ipsum de quodam vul-  
nere in Capite suo tunc existens curaret  
super se assumpsit & eidem W. ad tunc &  
ibm fidelie pmisit quod ipse idem R. tunc  
denar summas quane pcedice W. pro  
humoi cura vulneris pcedice ronabilie  
mereretur eidem W. inde postea requisitus  
esset bene & fideliter solvere & contentari  
vellet.



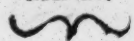
Illet. Et p̄dice W. in facto dicit qđ ip̄  
 p̄missionē & assumptionē p̄dice R. in  
 una p̄dice facē fidem adhibens postea  
 licet (tali die & anno) apud R. p̄dice  
 Com̄ p̄dice curabit p̄dice R. de bul-  
 re p̄dice Et p̄ cura ill̄ rōnabilē meruit  
 decem libras legalis Monete Anglie &  
 de adtunc & ibm dedit eidem R. noti-  
 am p̄dice tamen R. p̄missionē & as-  
 sumptionē suas p̄dice minime curans sed  
 machinans & fraudulent̄ intendens eun-  
 dem W. in hac parte callide & subdole  
 recipere & defraudare p̄dice decem libe-  
 ras aliquem inde denar̄ eidem W. non  
 dedit licet ad hoc faciendū p̄dice R. postea  
 ult̄ (tali die & anno) apud R. p̄dice p̄  
 andm̄ W. sepius requisit̄ fuit sed ill̄ ei  
 nullusque solvere omnino contradixit &  
 adhuc contradic̄. Unde dicit quod dete-  
 riorat̄ est & dampnum het̄ ad valentē  
 vigine librarum. Et inde producit Se-  
 ram, &c.

Quantum  
 Meruit.  
 Averment  
 de Cure.

The like for Curing the Defendant's  
 Servant.

I. R. A. B. Chirurgus queritur de  
 C. D. Gen̄ in Custodi Warr̄,  
 p̄ eo videt̄ quod cum quidam C. F.  
 serviens p̄dice C. (tali die & anno) bul-  
 lerať fuisset super dextra parte capitis  
 sui cum quadam plaga longitudinis tri-  
 um pollicium & profunditatis unius pol-  
 licis Cumque etiam p̄dice R. postea scilicet  
 eisdem die & anno supradice apud Lond̄  
 videt̄

Quantum  
Meruit.



videt in Paroch B. M. de Nr. in Ward de Cheap London ad special instanc requisitō ipsius C. super se assumptō eidem C. promisit quod ipse curaret sanaret p̄dice C. de plaga p̄dice, p̄dictum C. in cons inde postea scit eisdem anno & loco super se assumpsit & p̄dictum A. adtunc & ibidem fideliter promisit quod ipse idem C. 5 l. legalis Monete Angl p̄fac A. modo & forma sequend videlicet 50 s. de p̄dice 5 l. cum inde requisie esset & 50 s. de p̄dice 5 l. resid cum p̄dice C. f. de plaga p̄dice p p̄fac A. B. curaret vel sanaret fuisset, bene & fideliter solvere & contentare vellet. Et idem A. in p̄dicto dicit quod ipse idem A. postea scilicet (tali die & anno) apud T. p̄dice, viz. in Paroch & Ward p̄dice, p̄dictum C. f. de plaga p̄dice bene & sane curabit & sanabit secundum assumptionem per ipsum A. p̄fac C. ut p̄ferretur facere p̄dice tamen C. p̄missionem & assumptōem suas p̄dice eidem A. ut est supradictum facere minime curans sed machinans & fraudulenter intendens eundem A. de p̄dice 5 l. in hac parte callide & subdole decipere & defraudare p̄dice 5 l. nec aliquem inde denari eidem A. nondum solvit licet ad hoc faciendū, p̄dice C. postea scilicet (tali die anno & loco) & sepius postea requisie fuisset sed illi ei hucusque solvere omnino contempsit, & adhuc contradicit Unde dic quod ipse deterior est & dampnum habet a balene 10 l. Et inde p̄duc Sextam, &c.

See for Presidents of this nature, *Hern.*  
9. *Vidian.* 5. 52. 1 *Mod. Intrand.* 5. Clerk's

*an.* 59.

*Simile versus Executor*, 1 *Brownl.* 231. *Bro.*

*d.* 35. *Clerk's Man.* 130.

*Simile pro sanatione equæ*, *Ro. Ent.* 32.

*Quantum meruit pro medicamentis*, &c.

*ad. Dec.* 31.

*Quantum Valeret.*

For Goods and Merchandizes.

**A** B. queritur de C. D. in Custod  
A. Marr, &c. pro eo videlt quod cum  
dem C. primo die Octobris Anno Regni  
die Anne nunc Regine Angl', &c. se-  
undo apud H. in Com pdice in cons quod  
dem A. ad special' instanc & requisicon  
dice C. vendidisset & delibasset eidem C.  
opus & usum ipsius C. prope Mer-  
chandiz' & Mercimonia sequent videlt de-  
m virgae Panni Lanei Anglice vocae  
rize, unam Ulnam Panni Linei Ang-  
lice vocae Canvas, tres duoden fibula-  
um Anglice dozens of Buttons quinq  
virgae (&c.) super se assumpsit & eidem  
A. adtunc & ibm fidelie promisit quod  
ple idem C. tant denar Summas quanc  
Merchandiz' & Mercimonia pdice tem-  
pore venditionis & deliberationis earun-  
dem restabiliter valerent eidem A. cum  
inde postea requisie esset bene & fideliter  
olvere & contentare vellet, Et idm A.

in



Indebitat.

in facto die quod Merchandiz' & Mercimonia pdice tempore venditōis & deliberatōis earundem rōnabilie valebant quingue libe sex Solidi & octo denar legalis monete Anglie unde pdice C. ad tunc ibi hūit notitiam pdice tamen C. pmissiōis, &c. (ut supza.)

*Quantum valere, &c. for Goods Sold*  
*Lev. Ent. 10.*

*Simile pro Decimis absque separatione*  
*Thomps. 16.*

*Indebitat' Assumpsit & Insimul Computasset*

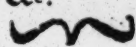
For divers Merchandizes sold and delivered.

**R** C. queritur de W. P. in Custia Mare, &c. p eo videlicet quod pdice W. quarto die Decembris Anno Regni Dñe Anne nunc Regine Anglie, primo apud L. in Com pdice indebitat fuisse p̄fate H. in trigine libris legalis monete Anglie pro diversis Merchimonia Merchandiz' eidem W. per eundem H. ad special' instanc & requisitōis ipsius W. ante tempus illud vendit & deliberat & sic inde indebitat existē ipse pdice W. in consideratōe inde postea scilicet eidem die & anno apud L. pdice in Com pdice super se assumpsit & eidem H. ad tunc & ibidem fideliter pmissit quod ipse pdice W. p̄s trigine libras eidem H. cum inde requisitū esset bene & fidelie solvere

Contentare vellet Cumq; etiam predicta  
 postea scit decimo quinto die Decem-  
 bris Anno supradicti apud L. predicta in  
 com predicti insimul computasset cum eodem  
 de & concernend diversis denariis summis  
 dem R. p predicta W. ante tempus illud  
 hic & adtunc aretro & insolue existend  
 et sup Compō illo predicti W. adtunc & ibi-  
 em invene fuit in Arreragiis erga pre-  
 dicta R. in at trigrine libi filis monete Angl  
 sic in Arrerag invene existend predicta W.  
 in cons inde postea scit eisdem die & anno  
 apud L. predicta in Com predicta sup se as-  
 sumpsit & eidem R. adtunc & ibidem fi-  
 elit pmisit quod ipse idem W. predicta tri-  
 gine libi uls menzonae eidem R. cum  
 de postea requisie esset filiter bene & fide-  
 ter solvere & contentare vellet predicti tamen  
 D. sepas pmissionem & assumptionem suam  
 in forma predicti fac' mie curans sed  
 machinans & fraudulene intendens eun-  
 dem R. in hac parte callide & subdole de-  
 pere & defraudate predicti sepas denariis sum-  
 mas in toto se attingend ad sexagine libras  
 et aliquem inde denariis eidem R. nondū  
 solvit nec ei p eisdem aliquantie conten-  
 abit licet ad hoc faciend predicti W. postea  
 scit predicti decimo quinto die Decembris  
 Anno supradicto apud L. predicti in Com p-  
 eundem R. requisie fuit sed illi ei huc-  
 usq; solvere seu ei pinde aliquantie conten-  
 are omnino recusabit & adhuc recusat  
 inde idem R. dicit quod ipse deteriorat  
 & dampnū hēt ad valenc quinquagine  
 librarū Et inde pduc Sextam, &c.

Indebitae  
 Assumpsit.  
 Infimil  
 computas-  
 set.

Indebitat'  
Assumpsit,  
&c.



*Vide Presidents sur Indebitat' Assumpsit,*  
1 Mo. Intr. 6, 11. Bro. Red. 11, 74, 89.  
2 Saund. 117, 121, 208. Clerk's Ass. 257.  
Clerks Man. 80. Read's Dec. 36, 61. 2 Mo.  
Intr. 45.

*Simile sur 3 infimul computasset pro demer'  
recept'. 3 Lev. Rep. 2. Clerks Man. 138.*

Declaration laid upon five several Pro-  
mises.

1. Assum-  
psit. For  
Meat,  
Drink,  
Washing  
and Lodg-  
ing.

**T. R.** **A.** B. queritur de C. D. in Cu-  
ro. Hod' Mari, &c. p co videt  
quod cum primo die Maij Anno Regni  
Dom Anne nunc Regis Anglie &c. primo  
apud C. in Com' p'dict' in cons' quod p'dict'  
A. ad special' instanc' & requisition' ipsius  
C. invenisset & p'vidisset p'fac' C. sufficien-  
tesculene poculene lozonem & cubile p' spaci-  
decem septimanarum finie eodem primo  
die Maij Anno primo supradicto idem C.  
sup se assumpsit & eidem A. adtunc & ibi-  
dem fidelie p'misit quod ipse idem C. sol-  
veret p'fac' A. p' qualibet septimanam p'p-  
decem septimanarum septem solidi legalis  
monete Anglie in toto se attingend'  
70 s. Cumq; etiam p'p' C. postea scilicet  
cundo die Maij Anno primo supradicto  
apud C. p'p' in Com' p'p' in cons' quod  
p'p' A. ad consimiles instantiam & re-  
quisitionem ipsius C. invenisset & p'vi-  
disset p' p'fac' C. sufficien' esculene pocule-  
lozonem & cubile p' dis'is septimanis  
diebus tunc p'terit idem C. sup se assump-  
sit & eidem A. adtunc & ibidem fidelie

2. Quan-  
tum vale-  
bant.



# Of Declarations.

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omisit quod ipse idem C. tunc denari summam quane pdia' esculene lorio & cubile rationabilie valerent eidem A. cum inde requisie esset filie bene & fideliter solvere & contentare vellet Et ptes A. in facto die quod esculene poculene lorio & cubile ul' mentonae rationabilie valebant quatuor libe legalis monete &c. unde ptes C. postea scit eodem secundo die Maij apud C. pdia' notitiam habuit Cumq; etiam pdia' C. postea scit tertio die Maij Anno primo supradicto apud C. in Cons pdia' in cons quod idem A. ad consimiles instantiam & requisitionem ipsius C. attendisset & curasset eundem C. per diversos septimanas & dies tunc pterie in & circa necessai negotia ipsius C. tempore egregitudinis & languoris ipsius C. sup se assumpsit & eidem A. ad tunc & ibm fideliter pmisit quod ipse idem C. tunc denari summas eidem A. quane ipse idem A. p diligentia attendentia & labore suis ptes rationabilie habere merer eidem A. cum inde requisie fuisset filie bene & fideliter solvere & contentare vellet Et idem A. in facto dicit quod ipse idem A. p diligentia attendentia & labore suis in & circa necessai negotia & curatod pdice C. tempore languoris & egregitudinis ipsius C. ptes rationabilie habere meruit quinquagine solidos legalis monete Anglie unde pdia' C. postea scit eodem tertio die Maij apud C. pdia' notitiam habuit Cumq; etiam pdia' C. postea scilicet quarto die Maij Anno primo supradicto apud C.

Indebitas  
 Assumpsit,  
 &c.

3. Quam  
 tam mensis

4. Indebitas  
 Assumpsit,  
 &c.

L. 2.

predia'

Indebitat'  
Assumpsit,  
&c.

3. Insimul  
Computas-  
set.

predia' in Comd predia' indebitae fuisse  
pfae A. in tribus libris & sex solidis  
similis legalis monete p tunc denat summa  
p ipsum A. ad consimiles instanc & re  
quisitionem & p pprio usu ipsius C. ante  
tempus ill' erogae & exposie [or thur  
upon a Mutuatus p pecuniis p pfae D  
ante tempus ill' a pfae quer mutuae.  
super se Assumpsit & eidem A. ad tunc  
ibm fideliter pmisit quod ipse idem C.  
pdia' tres libe & sex solidis eidem A. cum  
inde postea requisie esset sitie bene & fideliter  
etiam solbere & contentare vellet Cum  
etiam predia' C. postea scilicet quinto die  
Maij Anno primo supradicto apud C.  
pdice in Comd pzed insimul Computasse  
cum eodem A. de dictis denat summa  
eidem A. p pdia' C. ante tempus illu  
debite & ad tunc aretro & insolue existe  
& sup compo illo pdia' C. invene fuit  
arrearag erga ipsum A. in tresdecim lib  
& sex solidis similis legalis monete Angl  
& sic in arrearag invene existend predia'  
in cons inde postea scilicet eidem die  
anno ule supradictis apud C. pdice  
Comd pdice sup se Assumpsit & eidem  
ad tunc & ibm fideliter pmisit quod ip  
idem C. pdia' tresdecim libe & sex sol  
ule mentionat eidem A. cum inde post  
requisie esset similie bene & fideliter sol  
& contentare vellet pzed tamen C. sep  
pmissionem & assumptionem suas pdia' in  
ma pdia' fact' minime curans sed mac  
hans & fraudulene intendens eundem  
in hac parte callide & subdole decipere  
defraudare pdia' seperat denat summa

Indebitat'  
Assumpsit,  
&c.

to toto se attingend ad viginti sex libe & decem solidis seu aliquem inde denar  
dem A. nondum solvit nec ei p eisdem  
equalit contentabit ( licet ad hoc faciend  
ed C. p eundem A. postea scit decimo  
e Maij Anno primo supradicto & sepius  
postea apud C. pdia' in Com pzed re-  
nisse fuit ) sed ill ei hucusq solvere seu  
p eisdem aliqualit contentare omnino  
recusabit & adhuc recusat Unde idem  
dicit quod ipse deteriorat est & damp-  
am habet ad valene trigine libi Et  
de pduc Sextam, &c.

The like Presidents, 2 Mo. Intr. 35. Clif.  
Clerk's Man. 62. Bro. Vad. Mecum 69.  
Wentr. Rep. 254.

These and the like Presidents mentioned  
the first Book, I hope, may be sufficient  
rections for this particular.

See the First Book, from page 160 to page  
e, and from 316 to 333.

Such Presidents as relate to Executors and  
ministrators, and are convenient for our  
urpose, shall follow by themselves.

But here it may be necessary, first to con-  
er how Promises ought to be grounded,  
hich take briefly as follows.

How Promises ought to be grounded.

Indebitat'  
Assumpsit.

If one be indebted unto another upon a  
ple Contract, and the Plaintiff sue for it  
on a Promise to pay it, he must shew  
w the first Debt grew due, and for what ;



*Indebitatus  
Assumpsit,  
&c.*

as upon an *Indebitatus Assumpsit*, where the Debt is the Consideration of the Promise.

*Quantum  
meruit.*

If one sue upon a Promise to satisfy him for Work done, he must shew in his Declaration how much he deserved for his Work.

*Quantum  
Valebat.*

So if one sue for a thing sold, where no Price was agreed upon, he must aver, and shew it to be worth so much.

*Insimul  
Computasset.*

But upon an *Insimul Computasset* he need not shew how, and for what, but generally that the Defendant *Insimul Computasset* with the Plaintiff, *de dictis denariis summis et deinde Querit per predicta* Def. ante tempus illud debere et solubere, and upon the Account was found in Arrears so much, and in consideration thereof did promise, &c. without shewing for what.

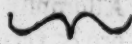
*Forbearance of  
Suit.*

Also where 'tis in consideration of forbearance, the Cause of the first Debt need not to be shewn; — as if one sue for a Debt, and the Party, or another pray the Plaintiff to forbear his Suit, and he will pay it, &c. Upon a Suit upon this Promise, the Plaintiff need not shew the Cause of Debt he first sued for; for the forbearance is the Consideration of this Suit.

#### *Averment in Declarations.*

*Upon Con-  
sideration  
executory.*

In an Action upon an *Assumpsit*, if the Consideration be Executory; as if one promise to do something to me in Consideration of something to be done before by me to or for him; if I will sue him for that

is to do for me, I must aver, that I have Averment  
 done that which was first to be done by me,   
 for till that be done I may not maintain an  
 Action upon the Promise.

As if one promise to me, that in Consideration I will forbear my Debt till such a day, he will pay me, &c. I must shew I did forbear; for if I sue for it within the time, the *Assumpsit* and Action is gone.

And if a certain Time and Place was a Time and  
 agreed on for the doing the thing agreed Place.  
 on, I must set it forth to be done accordingly.

And where 'tis Executory, and averr'd Consideration executory cancelled.  
 that 'tis executed, when indeed it is not, the Defendant may shew it specially, and may take Issue as well for not performing the Consideration Executory, as upon the Promise; but if he pleads generally *Non Assumpsit*, he Cancelleth the Performance of the Consideration Executory; and so it is upon a Promise to do a thing upon Condition.

But it is otherwise in case of Reciprocal Reciprocal Promises.  
 Promises, that is, where one Promise is the Consideration of another; there the Plaintiff may count, that in Consideration that he had promised one thing to the Defendant, the Defendant had promised another thing to him, and this will maintain the Action without any Averment of Execution of what is Executory in the Promise; and this is generally laid upon a *Colloquium* between the Parties, as is before set forth, pag. 108, 109.

Assumpfit  
pro & vers  
Exec' &c.

Next we will peruse some Declarations brought by, or against Executors or Administrators upon promises made to, or by the Testator or Intestate, &c.

For an Executor upon a *Quant' Valer' & Quantum Meruit*, for Meat, Drink, Washing, Lodging and Necessaries found by the Testatrix for the Defendant's Daughter; and also an *Indebitat' Assumpfit*.

For Board-  
ing and  
Necessaries

London H. S. T. Gen Executor Testi  
ultime Voluntat' Hanne  
Uoyd Vid defuncta' queritur de R. W. in  
Custod' Mari, &c. p eo videlt quod cum  
pred R. nup in vita pred H. scilt vicesimo  
die Julij Anno Domini (Et.) apud Lon-  
don videlt in Paroch Beate Marie de  
Arcubus in Warda de Cheap' in confide-  
razon quod eadem H. ad special instanc  
& requisicon predia' R. ad ppria onera  
& expens ipsius H. dare & pvidere vellet  
Anglice would give and provide ad & pro  
quadam E. B. filia pdia' R. sufficient  
esculene poculene lect' apparat & al res  
necessar & convenient Anglice Meat, Drink,  
Lodging, Apparel, and other things con-  
venient p eadem E. p tali tempore  
qual pred E. cum pfat H. ibidem conti-  
nuaret & cohabitaret ac in ulteriozi confi-  
derazone quod pfat H. adtunc & ibidem  
in vita sua ad consimilem instanc pred R.  
ac ad onera ipsius H. ppe instruere &  
docere vellet vel doceri causaret pdia' E.



per totum tempus p̄d in Sutura & opere  
 Acus, Anglice Sewing and Needle-work,  
 ac in ludend̄ super Barbiton, Anglice  
 the Lute, ac in Saltando, Dancing, sup  
 se assumpsit p̄fateq; H. in vita sua adtunc  
 & ibidem fideliter promisit quod ipse i-  
 dem H. tantē denarū summas quāne hujus-  
 modi esculent̄ poculene lect̄ futura lusus  
 & al' res necessar̄ rationabiliter valerent  
 aut p̄fate H. p̄ eisdem erogaret vel habere  
 mereretur p̄fate H. bene & fideliter solvere  
 & contentare vellet. Et idem S. in facto  
 dicit quod p̄dice H. in vita sua p̄missionē  
 & assumptōm p̄dict̄ H. fide adhibens postea  
 scilicet (tali die, &c.) anno (&c.) apud L. p̄d  
 in Paroch̄ & Warda p̄dice ad dice instancē  
 & requisitōm p̄dice H. ac ad p̄p̄e onera  
 & expens̄ p̄fate H. dedit & p̄videbat ad &  
 p̄p̄o p̄dice E. sufficiens esculent̄ poculene &  
 lect̄ p̄p̄o termino & p̄ spaciū quatuor  
 annorum in quib; dicta E. ad & cum p̄fate  
 H. in vita sua ibm continuabit & cohabi-  
 tabit ac p̄fate H. in vita sua p̄ eisdem ra-  
 tionabilit̄ here meruit de p̄dict̄ H. sum-  
 mam quadragint' librarum legalis mo-  
 nete Anglie videlicet decem libe p̄p̄o quo-  
 libet anno p̄dict̄ quatuor annorum juxta  
 assumptōm p̄d H. p̄d' idemq; S. ulterius  
 in facto dicit quod p̄fate H. in vita sua dicit  
 p̄missionē p̄dict̄ H. in forma p̄dict̄ fact̄  
 fidem adhibens eodem (tali die, &c.) an-  
 no (&c.) supradicto apud L. p̄dict̄ in Pa-  
 roch̄ & Warda p̄dict̄ instruxit & docuit  
 p̄dict̄ E. in Sutura & opere Acus p̄dict̄ p̄  
 p̄dict̄ spaciū quatuor annorum ac p̄ eade  
 instructione bene & rationabilit̄ habere me-  
 ruit

Ass. pro &  
 vers' Exec.  
 &c.

And for  
 Testatrix's  
 instructing  
 her in Sew-  
 ing and  
 Needle-  
 work, play-  
 ing on the  
 Lute and  
 Dancing,  
 Quant'  
 valeret.  
 Quant'  
 mereretur.

Meruit 40l.  
 for Meat,  
 Drink and  
 Lodging.

Ass pro &  
vers' Exec'  
&c.

And 8 l.  
for Sewing  
and Needle-  
work.

And 23 l.  
for Appa-  
rel and  
Necessaries.

And 15 l.  
for teach-  
ing to play  
on the Lute  
and to  
Dance.

Indebitas  
Assumpsit.  
for Bands,  
Cuffs, Lin-  
nen and  
Lace.

runt octo librē consimilis monete Anglie  
Mc idem S. etiam in facto dicit quod p[ro]  
fac H. in vita sua ad dice instancē & requi-  
sitionē p[re]dicte R. ac ad onera p[re]fac H. p[ro]  
apud L. p[re]dicte in Paroch & Warda p[re]dicte  
dedit & p[ro]videbat ad & p[ro] p[re]dicte C. tam  
apparac & al res necessar dice C. conde-  
niene videt calceamene pannum lineum  
teniolam & hujusmodi necessar quant p[ro]  
eisdem dicta H. erogabit & bene & rati-  
nabilie here meruit de p[re]dicte R. vigine &  
tres librē consimilis monete Anglie  
demq[ue] S. etiam in facto dicit quod p[re]dicte  
H. in vita sua apud London p[re]dicte videt  
in Paroch & Warda p[re]dicte infra p[er] spatium  
quatuor annorum ad onera p[re]fac H. p[ro]  
instrui ac doceri causabit p[er] E. in luden-  
do super Barbiton ac in saltando ac p[ro]  
eisdem erogabit ac bene & ratiōnabilie here  
meruit de p[re]dicte R. quindecim librē con-  
similis monete Angl Cumq[ue] etiam p[re]dicte  
dice R. p[re]dicte (tali die, &c.) anno (&c.)  
apud L. p[re]dicte. (&c.) indebit fuisse p[re]fac  
H. in vita sua in octodecim solid & octo de-  
nar consimilis monete Angl p[ro] consecra-  
one & aptacone duarum collar Anglie  
of two Bands, & duorum parium manica-  
rū Anglice two pair of Cuffs, p[ro] p[re]dicte R.  
ac p[ro] panno lineo teniol & al necessar p[re]fac  
H. p[ro] eisdem expendie & erogac & sic in-  
de indebitas existē dice R. postea scilicet  
eodem (tali die, &c.) anno (&c.) supradictis  
apud L. p[re]dicte, (&c.) in cons inde super  
se assumpsit p[re]fac H. in vita sua adtunc  
& ibidem fidelie p[ro]misit quod ipse idem  
p[re]dicte octodecim solid & octo denar p[re]fac H.

ne & fideliter solvere & contentare vel  
 Omnes que quidem sepat denae sum-  
 e superius mentionae in toto se attin-  
 unt ad 86 l. 18 s. 8 d. p̄dict tamen H. se-  
 al p̄mission' & assumption' suas p̄dict  
 minime curans sed machinans & fraudu-  
 me intendens ipsam H. in vita sua ac  
 fac S. post mortem ipsius H. in hac par-  
 e callide & subdole decipere & defrau-  
 are p̄dict 86 l. 8 s. 8 d. seu aliquem de-  
 ar inde eidem H. in vita sua seu p̄fac S.  
 post mortem ipsius H. nondum solvit nec  
 is seu eorum alteri p̄ eidem hucusq; ali-  
 qualic contentabit licet sepius inde p̄ p̄-  
 ac H. in vita sua ac p̄ ipsum S. post  
 mortem ipsius H. requisit fuisset sed p̄  
 H. ill p̄fac H. in vita sua ac eidem S.  
 post mortem ipsius H. solvere seu satisf-  
 facere recusabit & adhuc recusat unde  
 idem S. dic quod ipse deteriorat est &  
 dampnum het ad valenc centum & vigine  
 Librarum. Et inde p̄duc Sextam. Et  
 p̄fert hic in Cur idem S. Literas Testa-  
 mentarias p̄dict H. per quas satis liquet  
 Cur hic ipsum S. fore Executorem Te-  
 stamenti p̄dict H. Et inde here Admini-  
 strationem, &c.

Aff. pro &  
 vers' Exec.  
 &c.

In toto se  
 attingen.

Profert in  
 Cur' Lite-  
 ras Testa-  
 mentar.

By an Executrix of Attorney upon a  
 Quantum Erogasset & Meritus fuisset.

London n. A. S. Vis Executrix Tes-  
 tamenti & Ult Voluntas  
 T. S. Gen defunct' queritur de P. H.  
 in Custod Mare, &c. p̄ ea videt quod cō  
 primo



Ass. pro &  
vers' Exec'  
&c.

For Testa-  
tors Fees  
in prosecu-  
ring Suits.  
For monies  
by him  
laid out.

Testator  
erogasset.

19 l. 10 s.

primo die Aprilis Anno Regni  
Anne nunc Regine Angl', &c. apud Lon-  
don p'dict videlt in Paroch' Sci Dunstons  
in Occidente in Warda de Farringdon  
extra in cons' quod p'dict T. in vita sua ex-  
istend und Attoz in Cur' dict' Dñe Regine  
cozam ipsa Regina (eadem Cur' apud  
Westm in Com' Midd', &c. p'dict P. per spa-  
rium trium Terminorum inter talem  
diem, &c.) anno (Ec.) primo & p'dict pri-  
mum diem Aprilis Anno secundo supra-  
dicto p'secue fuisset & defendisset sepal'  
Sectas in Cur' dict' Dñe Regine cozam  
ipsa Regina (eadem Cur' ad Westm p're-  
dict' existen') & diversas denar' summas  
in & circa Sectas ill' exposuisset & ero-  
gasset p'dict P. super se assumpsit & p'fat'  
T. in vita sua adtunc & ibm fideliter p'mi-  
sit quod ipse idem P. omnes tant' denar'  
sumas legalis monete Angl' quantum p'd  
T. exposuit & erogasset ac etiam om-  
nes al' denar' summas consilis monet'  
quas p'd T. racionabil' here meritis fu-  
isset p' justis feodis suis & p' opere & la-  
bore suis p' ipsum usitae & impens' in &  
circa p'secutō & defenctō sepal' Secta-  
rum p'dict' eidem T. cum inde postea re-  
quisit' esset bene & fidelit' solvere & con-  
tentare veller Et eadem A. in facto dicit  
qd p'dict' primo die Aprilis Anno Regni  
dict' Domine Regine nunc secundo supra-  
dicto apud London p'dict' in Parochia &  
Warda p'dict' p'fat' T. exposuisset & ero-  
gasset summam nobendecim librarum &  
decem solis legalis Monete Anglie in &  
circa p'secutō & defenctō earundem

sepal'

pal sectar' pdict' ac adtunc & ibidem ra-  
 nabilit' here meritis fuisse p justis  
 bdis suis & p opere & labore suis p  
 ut pfertur p ipsum usitat' & impens in  
 circa psecution' & defencon' earumdm  
 pal' Sectarum summam sex librarum  
 quinque solid' & amplius consimilis  
 Monet Unde idem T. (in vita sua) ad-  
 ine & ibm dedit noticiam p N. Cumq  
 iam possea scilt p pmo die Aprilis  
 anno secundo supradicto apud T. p in  
 Paroch' & Warda p pdict' N. indebitat'  
 ut pferat' T. in vita sua in al' novende-  
 am libr' & decem solid' consilis Monete p  
 tant' denar' summa p ipsum T. in vita sua  
 ad spial' instanc' & requisicon' p N. ex-  
 raposit' in & circa psecution' & defencon'  
 pperal' al' Sectarum in p' Cui ac etiam  
 in al' sex libris & quinq' solid' p secdo  
 idm T. in vita sua debet' & p opere &  
 labore ipsius T. per ipsum in vita sua  
 usitat' & impens ad consimiles instanc' &  
 requisicon' pdict' N. in & circa psecution'  
 & defencon' Sectarum ult' pred' Et sic in-  
 de indebitat' existen' pdict' N. in conside-  
 ration' inde possea scilicet eisdem die &  
 anno ult' mentonae apud London' p in  
 Parochia & Warda p super se assumpsit &  
 pferat' T. in vita sua adtunc & ibm fidelit'  
 pmisit qd ipse p N. sepal' denar' summas  
 ult' mentonae pferat' T. cum inde requi-  
 sit' esset bene & fidelit' solvere & contentare  
 vellet pdict' tamen N. seperat' pmission' &  
 assumption' suas p mic curans sed ma-  
 chinans & fraudulent' intendens pferat' T.  
 (in vita sua) & eandem N. post mortem  
 ipsius

Att. pro &  
 vers' Exec',  
 &c.

Meritis su-  
 isset 6 l. 5 s.

Indebitat  
 Assumpsit  
 pro al' 19 l.  
 10 s.

Et al' 6 l.  
 5 s.

Ass. pro &  
vers' Exec'  
&c.

ipſius T. in hac parte callide & ſubdole  
decipere & defraudare pꝛes ſeperal dena-  
ſummas pꝛefae T. (in vita ſua) aut e-  
dem A. poſt ipſius T. mortem nondum  
ſolvit nec eidem T. (in vita ſua) ſeu e-  
dem A. poſt ipſius T. mortem pꝛom-  
huculſque aliquantulum contentabit licet al-  
hoc faciendū pꝛdice D. per pꝛefae T. in vita  
ſua & per eandem A. poſt ipſius T. mor-  
tem ſcilicet (tali die, &c.) anno, (&c.)  
pud L. pꝛdice in Parochia & Warda pꝛi-  
ſepius requiſiſſe fuit, Unde eadem A. dicit  
qđ ipla deteriorae eſt & dampnum heri-  
valent quadragine librarum Et inde pꝛo-  
ducit Sextam, &c. Et pꝛofert hic in Curia  
eadem Anna Literas Teſtamentarias  
pꝛefae T. per quas ſatis liquet Cur' iplam  
A. ſoꝛe Executricem Teſtamenti pꝛdice  
inde here Adminiſtratorē, &c.

Profert Li-  
teras Teſta-  
mentarias.

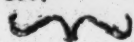
*Indebitat' Aſſumpſit* againſt an Executor  
for Money had of the Plaintiff by  
the Teſtator, &c.

S. R. **A**. B. nup de C. in Com pꝛedice  
Gen' Executor Teſtamenti  
D. C. Attach fuit ad reſponſū f. G. de  
placito tūſgi ſup Caſum Et unde idem f.  
p. H. J. Attorū ſuum queritur quare  
pꝛdice D. in vita ſua ſcilicet pꝛimo die  
Jan' Anno Regni Domine Anne Re-  
gine nunc pꝛimo apud L. in Com S. in-  
debitae fuiſſet eidem f. in decem libꝛis  
galis Monet Angl' pꝛo diverſis denariis  
ſummiſ pꝛo D. in vita ſua ad uſū ipſius



ante tempus illi habie & recepe Et Ass. pro &  
 inde indebitat existend p̄d D. in vita sua vers' Exec'  
 itea scilicet eisdem die & anno apud L. &c.  
 in Com p̄d in cons inde sup se assump  
 & eidem f. adtunc & ibidem fidel'e p  
 sit qd ipse idem D. eisdem 10 l. eidem  
 cum inde postea requisie fuisset bene  
 fidelie solvere & contentare vellet p̄dice  
 men D. Testatoz in vita sua ac p̄d A.  
 si mortem ipsius D. promission & as  
 mptom p̄d D. in vita sua sic ut prefer  
 r facit mie curans set machinam &  
 audulene intendend ac alter eorum ma  
 inans & fraudulene intendens eundem  
 in hac parte callide & subdole decipere  
 defraudare p̄d 10 l. seu aliquem denar  
 de eidem f. (licet p̄dice D. in vita sua  
 postea scilicet vicesimo die Jan' anno  
 nimo supradicto & p̄d A. post mortem  
 dice D. scilicet decimo die Martij An  
 o Regni dice Domine Regine nunc se  
 ando & sepius postea apud L. p̄dice in  
 Com p̄dice per eundem f. adinde requi  
 e fuissent) non solver seu contentaber  
 nec eorum alter solvit seu contentabit set  
 si ei solvere seu contentare omnino recu  
 aber ac p̄dice A. ill' ei solvere aut ali  
 qualit' contentare adhuc omnino recusat  
 d dampnum ipsius f. 20 l. Et inde p  
 ne Sextam, &c.

Ass. pro &  
vers' Exec'  
&c.



For an Administrator against an Executor upon an *Insimul Computaver'* between the Intestate and Testator.

**Quidd' R.** L. Administrator omnium  
singulorum Bonorum & Ca  
talloꝝ Jurium & Creditoꝝ que fuerunt  
J. J. tempore mortis sue qui obiit inte  
stae ut dicitur queritur de R. W. Ex  
ecutore Testi & Ultime Voluntatis R.  
W. Gen' nup defunct' in Custod' Hare  
&c. pro eo videlicet qd cum pd J. J. in vita  
sua apudice R. W. Testator in vita sua  
scilicet vicesimo die Maij Anno Regni Ric  
Anne nunc Regis Angl, &c. primo apud  
Paroch Sancti Egidij in Campis in Com  
pdice insimul computaverunt de diversis  
denar summis eidem J. J. in vita sua p  
presae R. W. Testator in vita sua ante  
tunc debet & adhuc aretore & insolue er  
stend & sup Compō illo pd R. W. Testator  
ad tunc & ibidem inveniē fuit in Arreragiis  
erga presae J. J. in tresdecim libris sex  
solidis & octo denar legalis Monete Anglie  
pdicatus R. W. Testator in vita sua in  
consideratione inde super se assumpsit & et  
dem J. J. ad tunc & ibidem fidelie pmisit  
qd ipse idem R. W. pdice tresdecim libe  
sex solidis & octo denar eidem J. J. bene &  
fidelie solvere & contentare vellet Cum  
etiam pdice R. W. Testator in vita sua  
postea scilicet vicesimo primo die Maij An  
supradicto apud Paroch pd in Com pd  
in consideratione qd ipse idem R. W. Te  
stator

atoz adtunc & ibidem indebitae fuit ei-  
 am J. J. in vita sua in triginta & sex  
 or quatuor solis & novem denar legalis  
 donec Angl p seperalibus cadis potus  
 pulae & cervisie illupulae eidem R. W.  
 Testatozi & ad usum & commodum ipsius  
 R. W. Testatozis ppr antetunc vendie &  
 liberae assumpsit sup se & eidem J. J.  
 tunc & ibidem fidelie pmisit qd ipse  
 dem R. W. pced trigine & sex libr qua-  
 tor solis & novem denar eidem J. J.  
 ene & fidelie solvere & contentare vellet  
 dictus tamen R. W. Testatoz in vita  
 a & pced R. W. Executoz post mortem  
 dicti R. W. Testatozis sepal pmissioe &  
 sumptioe pdicti R. W. Testatozis in for-  
 ma pdicta fac' mie curantes sed machi-  
 nantes & fraudulene intendentes eundem  
 J. J. in vita sua & pdictum R. T. post  
 mortem ipsius J. J. (cui quidem R. T. Admini-  
 stratio omnium & singulorum Bonorum  
 & Catallorum Jurium & Creditum que  
 fuerunt pced J. J. tempore mortis sue p  
 Johem pvidentia divina Cantuari Ar-  
 chiepiscopu totius Anglie Primae & Me-  
 tropolitani (tali die & anno, &c.) apud  
 Parochiam pdictam in Com pdicto debito  
 modo comissa fuit) in hac parte callide  
 & subdole decipe & defraudare pdictas se-  
 peral denarioz sumas seu aliquem inde-  
 denar eidem J. J. in vita sua seu pdae  
 R. T. post mortem ipsius J. J. nondum  
 solvunt nec eorum alter solvit nec aliquale  
 p eisdem hucusq contentabunt nec eorum  
 alter contentabit licet ad hoc faciend idem  
 R. W. Testatoz in vita sua & pdict' R. W.

Assumpsit  
 pro & vers'  
 Excc' &c.

Indebitat'  
 Assumpsit  
 by the Te-  
 stator for  
 Beer and  
 Ale.

Admini-  
 stration  
 committed  
 to the  
 Plaintiff.

M

Executoz



Assumpfit  
pro & vers  
Exec' &c.

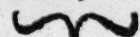
Executoꝝ post mortem p̄dicti R. W. C.  
statoꝝis p̄ p̄fac J. J. requisitū fuit ac liam  
ad hoc faciendū p̄dē R. W. Executoꝝ post  
mortem ipsius J. J. videlt ( tali die  
anno &c.) apud Parochiam p̄dē in Cui  
p̄dicto p̄dictum R. L. requisitū fuit sed  
p̄fac J. J. in vita sua & p̄dē R. W. post  
mortem p̄dicti J. J. solvere contradix-  
runt ac p̄fac R. W. Executoꝝ adhuc p̄fac  
R. L. solvere omnino contradicit in re-  
tardationem fidelis Administrationis Be-  
noꝝ & Catalloꝝ Jurium & Creditōꝝ  
p̄dē J. J. p̄dē unde idem R. L. dicit  
quod ipse valde deteriorat est & dampnū  
habet ad valenciam nonagine librarum  
Et inde p̄ducit Sextam, &c. Et p̄dictus  
R. L. p̄fert hic in Cui dicit Dōm Regine  
Literas Administrationis p̄dicti Archie-  
piscopi que Commissionē Administrationis  
p̄dē eidem R. L. in forma p̄dē testan-  
tur quarum dat est die & anno supra-  
dictis, &c.

Profert Li-  
teras Ad-  
ministrat'.

Against an Executor upon his own Pro-  
mise to pay the Testator's Debt.

Londōn R. **N** W. queritur de C. W.  
in Custos Mari, &c. p̄  
eo videlicet quod cum quidam R. R. Cui  
nup̄ defunct' in vita sua scilicet decimo die  
Octobr̄ Anno Regni Dñi Willi tertij nup̄  
Regis Anglie, &c. duodecimo apud Lon-  
don p̄dict' viz. in Paroch ( &c.) London  
indebitat' fuisset p̄fac P. in viginti libris  
legalis Monete Angl p̄ diversis Merc-  
monis

Assumpsit  
pro & vers  
Exec', &c.



bonis & Merchandiz' eidem R. in vita  
ad special' instanc' & requisition' ipsius  
p eundem R. ante tempus illud ven-  
it & deliberat' p'dictulq' R. sic inde inde-  
bita existens postea scit (tali die, &c.)  
Anno duodecimo supradict' apud London  
Parochia & Warda p'reb' p'dict' R. obiit  
p'dict' viginti libe eidem R. minime  
solue existens post cujus quidem R. mor-  
tem p'reb' T. ut Executor ipsius R. pos-  
sedit seipsum de omnib' & singulis bonis  
& catallis — juribus & creditis que  
averunt p'reb' R. tempore mortis sue Et  
p'dict' T. sic inde possessionat' existens po-  
stea scit ultimo die Novemb' Anno Regni  
Henrici nuper Domini Regis duodecimo supra-  
dicto apud L. p'dict' in Parochia & Warda  
p'dict' in cons' inde sup se assumpsit & ei-  
dem R. adtunc & ibidem fideliter p'misit  
quod ipse idem T. omnes tal' denar' Sum-  
mas qual' p'dict' R. demonstraret & affir-  
maret fore debite aretro & insolue eidem  
R. a p'dict' R. in vita sua eidem R. cum  
inde requisit' esset bene & fideliter solbere  
& contentare vellet Et idem R. in facto  
die quod ipse idem R. demonstrabit ei-  
dem T. p'reb' vigine libras debite & aretro  
& insolue fore eidem R. a p'fate R. in  
vita sua p'dict' tamen T. p'mission' &  
assumption' suas p'dict' minime curans  
sed machinans & fraudulens intendens  
eundem R. in hac parte callide & subdole  
decipere & defraudare (&c. ut in al.)

Assumpsit  
pro & ve:s  
Exec', &c.



By Husband and Wife Administratrix,  
&c. upon an *Indebitat' Assumpsit* to  
them both, in right of his Wife as  
Administratrix, &c.

Quid sit. **A.** B. Gen & C. Uxor eius  
& singulorū Bonorū & Catallozū Jurium  
& Creditorū que fuerunt R. H. nup̄ Diti  
sui defunct' qui obiit intestat' queruntur  
de W. S. in Custod' Mart' &c. pro vide-  
licet quod cum p̄dicta W. quinto die No-  
vemb'ris Anno (et.) apud Parochiam  
Sancti Clementis Dacorū in Com̄ p̄dicta  
indebitae fuisset eisdem A. & C. in jure  
ipsius C. ut Administrat' p̄dicta' Bono-  
rum & Catallozū p̄dicta' R. H. p̄dicta' in  
Summa nonagine Librarū legalis Mo-  
nete Angl' Et sic indebitae existend' p̄dicta  
W. postea scilicet eisdem die anno apud  
Paroch' p̄dicta in Com̄ p̄dicta in Considera-  
tōn' inde sup̄ se assumpsit eisdemq; A. &  
C. in jure ipsius C. ut Administrat' p̄-  
dictorum Bonorum & Catallozū p̄dicta'  
R. p̄dicta' adtunc & ibidem fideliter p̄miserit  
quod ipse idem W. p̄dicta nonagine Libras  
eisdem A. & C. in jure ipsius C. ut Ad-  
ministrat' p̄dicta' Bonorum & Catallozū  
p̄dicta' R. bene & fideliter solvere & contem-  
tare vellet quodocunq; ad hoc p̄ eosdem  
A. & C. in jure ipsius C. ut Admini-  
strat' p̄dicta' Bonorum & Catallozū  
p̄dicta' R. p̄dicta' requisitae foret p̄dicta tamen  
W. p̄missionē & assumptōn' suas p̄dicta  
minime

Quare if  
the Cause  
of the Debt  
ought not  
to be shewn  
as has been  
before ob-  
served.



minime curans sed machinans & frau-  
 ulene intendens eisdem A. & C. ut Ad-  
 ministratricē p̄dē in hac parte callide &  
 abdole decipere & defraudare & fidelem  
 Administrationem Bonorū & Catalloꝝ  
 que fuer̄ p̄dē R. p̄dē ut p̄fertur retar-  
 dare p̄dē nonagintē libe eisdem A. & C.  
 in iure ipsius C. ut Administratricē p̄-  
 dictorū Bonorū & Catalloꝝ p̄dē R. p̄-  
 dictā (cui quidem C. Administratio om-  
 nium & singulorū Bonorū & Catalloꝝ  
 que quē p̄dē R. tempore mortis sue post  
 ipsius R. mortem scit (tali die, &c.)  
 anno (&c.) ante sponsalia inter eos cele-  
 brat p̄ S. C. Legum Doctorem Peroga-  
 tive Cantuarij Jurium Custos sive Com-  
 missarij Legitime constitutē apud London  
 videlicet in Paroch Beate Marie de Arru-  
 bus in Warda de C. London commissa  
 fuit) iuxta p̄missionē & assumptionē p̄dē  
 W. p̄dē non solvit licet ad hoc (tali die  
 &c.) anno (&c.) supradicto apud Paroch  
 p̄dē in Com p̄dē p̄dē W. p̄ eandem C.  
 ante sponsalia inter eisdem A. & C. cele-  
 brat & p̄ eisdem A. & C. in iure ipsius C.  
 ut Administratricē p̄dē Bonorū & Catal-  
 loꝝ que fuer̄ p̄dē R. p̄dē ut p̄fertur post  
 sponsalia & Administrationē p̄dē requisie  
 fuit Unde iidem A. & C. dicunt quod ipsi  
 deterioratē sunt & dampnū hent ad valen-  
 tiam centū & vigine Librarū Et inde p̄-  
 ducē Sex &c. Et p̄ferunt hic in Cur Li-  
 teras Administratorias p̄dē que Com-  
 missionē Administrationis p̄dē p̄fat C. in  
 forma p̄dē factē testantur, &c.

Assumpsit  
 pro & vers'  
 Exec' &c.

Admini-  
 stration  
 committed  
 to the  
 Wife.

Proffer of  
 Letters of  
 Admini-  
 stration.

Misce.  
sance, &c.

You will find more Presidents for and against Executors and Administrators after in the Title of Debt and Trover, &c.

See Presidents *pro Exec'*, *Exec' vers' Exec'*, Co. Entr. 1 & 9.

By two Executors, where one is summoned and severed, *Bro. Vad.* 20.

*Pro Exec' versus Exec' super assumption' fact' per Testator' testatori*, Clerk Aff. 222.

*Pro Exec' duran' minor' Etat'*, Han. 1. Bro. Vad. 35. 2 Mod. Intr. 75. 1 Bro. 17. *vers' Admin'*. Simile, Clif. 51. Simile *sup' dua assump' un' super Compo' altera special' super Legatione*, 2 Bro. 27.

*Pro Adm' de bonis non Administ'rat' nec per J. nec per P. cum Testamento annex'*, 2 San. 371. Bro. Vad. 37.

*Versus un' Exec' per Legatee sup' Agreement' fact' inter Exec' pro solutione Legationis dat' Quer'*, Thomp. 73.

### Misfeasance and Negligence.

THESE Actions also may be said to relate either to the Damage of a Man's Real Estate, as to his House, Land, &c.

Or to his Personal Estate, as to his Horse, Cattel, Goods, &c.

Or to his Person, as for neglecting or misdoing a Cure about his Body.

As you may observe by the following Presidents, wherein you will also find them upon Promises Express and Implied.

Against

against one that kept his Fire so care-  
lessly, that the Plaintiff's House and  
Goods were burnt by the Defendant's  
Fire breaking out, &c.

Bond II. **N**. O. nup de S. in Comd pd'  
respondens P. Q. de plito quod cum se-  
cundum Legem & Consuetudinem hujus  
Regni Anglie hactenus usitatae & approbae  
quilibet homo ignem suum die & nocte  
salvo & secure custodire teneatur ne p de-  
fectu debite custodi ignis hujusmodi dam-  
num aliquod Vicinis suis eveniat ullo  
modo pdict' R. ignem suum tam negli-  
genter & improvide apud S. custodivit  
quod p defectu debite custodi ignis hujus-  
modi Bona & Catalla ipsius P. ad va-  
lenciam quinquagene Librarum in Do-  
mibus suis ibi existent' ac Domus pre-  
dict' combust' fuer' ad grave dampnum  
ipsius P. & contra consuetudinem pred'  
Et unde idem P. & R. W. Attor' suum  
queritur quod cum secundum Legem &  
Consuetudinem hujus Regni Anglie ha-  
ctenus usitatae & approbae Quilibet homo  
ignem suum die & nocte salvo & secure  
custodire teneatur ne p defectu debite cu-  
stodi ignis hujusmodi dampnum aliquod  
Vicinis suis eveniat ullo modo pdict' R.  
die (sc.) anno (sc.) possessionae existent'  
de (sc.) cum ptin' in S. predict' in quo  
quidem Messuagio idein R. tunc reman-  
sit & inhabitabit ignem suum ibidem tam



Misfeasance,  
&c.

**W** negligenter & improvide custodivit quod  
p defectu debite custodie ignis sui Bona  
& Catalla (Ec.) & al Bona & Catalla  
(Ec.) ipsius P. ad valenciam (Ec.) in  
Domibus ipsius P. tunc existentibus ac Do-  
mus videlicet (Ec.) de quibus idem P.  
tunc fuit seissie in dominico suo ut seorsum  
contigue adjacentes predictas Messuagia predictae  
P. tunc ibidem combusti fuerunt ad grave  
dampnum, &c. & contra consuetudinem predictam  
&c. Unde dicit quod deteriorae est &  
dampnum habet ad valenciam 300 l. Et inde  
pducit Sextam, &c.

See Presidents, *Rast. Entr.* 8. *Hern* 176.  
206. *Thomp.* 34. 1 *Bro.* 29. *Rob. Entr.* 41.  
3 *Lev. Rep.* 356. Et special Verdict.

We will here add a President of Non-  
feasance, against one who took part of a  
House, and promised either to give a  
Quarter's Warning, or pay a Quarter's  
Rent.

**I. R.** **A** B. querie de C. D. in custod  
idem A. (tali die & anno, &c.) apud A.  
predictam viz. in Paroch (Ec.) ad special in-  
stanciam & requisitionem ipsius C. dimississet  
predictae C. duas Cameras &c. [Here set  
forth the parcels let out] in domo sua  
manconali situate in Paroch predicta pro  
Termino unius anni sub redditu 20 l. (6)  
ipse idem C. premissa predicta in forma  
dimissa tamdiu habere & tenere placeret  
predictae

predice C. adtunc & ibm in cons inde super  
Assumpsit & eidem A. adtunc & ibide  
belic promissit qd si ipse idem C. premissa  
in forma pdice dimissa ante finem ejus-  
dem termini unius anni pred' relinqueret  
tunc ipse idem C. daret eidem A. premo-  
nitionem per spacium quarterij unius an-  
ni ante premissa ill in forma pred' dimissis  
relinqueret aut aliter daret eidem A.  
quinque libr legalis monete Anglie cum  
inde postea requisie esset predice tamen  
B. pmission & assumption suas po mie  
curans sed machinans & fraudulene in-  
tendens pdice A. in hac parte callide &  
subdole decipe & defraudare premissa ill  
in forma pdice dimiss ante finem termini  
pdice scilicet (tali die, &c. Anno, &c. su-  
pradicto) reliquit & eidem A. premonitio-  
nem per spacium quarterij unius anni  
ante premissa ill in forma pdice relinque-  
bat non dedit, nec s l. eidem A. adhuc  
solvit (licet ad hoc faciend predice C. p  
eund' A. postea scilicet tali die & anno,  
&c. supradicto apud A. predice in Paroch &  
Warda pdice requisie fuisset) unde idem  
A. dic qd ipse defiozac est & dampnum  
bet ad valenc 20 l. Et inde produc Se-  
ctam, &c.

This President (*mutat' mutand'*) may serve  
for a Demise of a whole House, &c. upon  
the like Promise.

See the like President, *Clerk's Man.* 126.

Against

Misce-  
fance, &c.

Against a Farrier for not curing a Horse according to his Promise, the Horse dying for want of fit Care and Cure.

It. **A** B. queritur de C. D. in Cusum  
Mare, &c. p eo videlt quod cum  
predice C. modo existit ac per diversos  
annos jam retroactos fuisset Faber fer-  
rarius (Anglice a Farrier) ac per totum  
tempus pdice exercebat & profitebatur  
Artem sive facultatem curandi Horses  
Equorum cumq; etiam pdice N. primo  
die Novembriis Anno (sc.) apud L. pos-  
sessionae fuisset de uno Spadone pretii  
decem Librarum ut de Spadone suo p-  
prio qui quidem Spado adtunc & ibidem  
languebat de quadam infirmitate & mor-  
bo in pede suo pro sanatione & curatione  
cujus quidem Spadonis de infirmitate &  
morbo suo pdice predictus N. postea scilicet  
eodem primo die Novembriis Anno  
supradicto apud L. pdice Spadonem illum  
psae C. posuisset & convertisset Spado-  
nemq; pd predicta C. de eodem N. adtunc  
& ibidem ad curand de infirmitate & mor-  
bo pd' assumpsisset pdice C. machinans &  
fraudulene intendens pdice N. in hac par-  
te deceptive decipere & defraudare curam  
suam circa Spadonem pdice postea scilicet  
decimo die Novembriis Anno supradicto  
apud L. predictam tam negligens & in-  
discrete apposuit quod Spado predictus  
postea scilicet vicesimo die Decembriis Anno  
supradicto apud L. pdice ratione negligens



## Of Declarations.

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**H** & indiscrete appositionis cure sue p<sup>d</sup>  
 a Spadonem p<sup>d</sup> de infirmitate & mo<sup>r</sup>  
 p<sup>d</sup>ict interit ad dampnum, &c.

Misfe-  
 sance, &c.

See the like President, *Rast.* 463. *Asb.*  
 12. *Clerk's Ass.* 259.

Against a Farrier for laming the Plain-  
 tiff's Horse with a Nail.

**H** G. &c. ad respondend' R. W. (&c.)  
 quare cum idem H. ad quendam  
 quum ipsius R. bene & artificialie pro-  
 ad Officium Ferrois ptinet ferran-  
 m apud S. assumpsisset p<sup>d</sup>ictus H.  
 endam Clabem in sinistro pede posteri-  
 Equi p<sup>d</sup>ice tam negligenter & in ar-  
 tificialie ibidem fixit quod Equus ille  
 pede p<sup>d</sup>ice claudus effectus multiplicie  
 teriozæ fuit ad grave dampnum ipsius  
 Et unde, (&c.) queritur quare cum p-  
 ctus R. ad quendam Equum ipsius R.  
 ne & artificialiter put ad Officium  
 ferrois pertinet ferrand' tali die & an-  
 apud S. assumpsisset p<sup>d</sup>ictus H. eisd-  
 e & anno quendam Clabum in sinistro  
 de posteriori Equi p<sup>d</sup>icti tam negli-  
 enter & inartificialiter ibm fixit quod  
 quus ille pede p<sup>d</sup>icto claudus effectus  
 multiplicie deteriozæ fuit ad dampnum  
 ipsius R. 10 l. Et inde produc' Sextam, &c.

See the like President, 1 *Bro.* 35. *Fitz.*  
 B. 94. *Reg. Orig.* 106.

Against

Misfe-  
fance, &c.

Against an Innkeeper for not keeping  
Goods safe in his Inn.

Sue it.

**A.** B. queritur de C. D. hospiti-  
tatoze cois hospitij vocat  
& cognit per signum de le Nag's Head in  
P. in Com pzedice in Custod Mart, &c.  
pro eo videt quod cum secundum Legem  
& Consuetudinem hujus Regni Anglie  
hospitatores qui hospitia coia tenent ad  
hospitand hoies per partes ubi humi  
hospitia existunt transeunt & in eis  
dem hospitantes eorum Bona & Catalla  
infra hospitia sua p'dice existend absque  
aliquibus diminutione sive dampno die  
& nocte salvo & secure custodire teneantur  
ita quod p defectu negligentia sive inju-  
ria hujusmodi hospitatorum sive serbient  
suorum aliquod dampnum hujusmodi  
hospitibus non eveniet ullo modo Cum  
etiam p'dice C. quarto die Septemb'is  
Anno Regni Domine Anne nunc Re-  
gine Anglie, &c. primo fuit hospitator  
& eodem quarto die Septemb'is tenuit &  
custodivit commune hospitium in New-  
port p'd' & p'dictus A. B. in eodem hospi-  
tio ut hospes p'dice C. adtunc & ibm hos-  
pitabit quidam tamen malefactores eisd  
A. B. ignoe eodem quarto die Septem-  
b'is Anno quinto supradicto apud P.  
p'dice in Com p'dice quandam Crumend  
Anglice vocat a Purse, ad valenc duoynd  
Solidorum & vigine libi & sex solid' in  
Pecuniis numeratis de denar ipsius A.

## Of Declarations:

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Misfe-  
sance, &c.

**I**n eadem Crumena contene sub custod'  
dice C. D. (in p'dicto hospicio ipsius  
D.) p p'dend N. B. hospitem suum p-  
dice illat in defectu debet custod' ipsius  
C. D. & servied suorum cepei & alpoztar-  
et ad dampnum ipsius N. 501. Et inde  
duc Sectam, &c.

See the like President, *Thomp.* 42, 74.  
*Indian* 151. *Bro. Red.* 13. *Raft.* 404, 405.  
*Ent.* 347. *Asht.* 48. 1 *Brownl.* 196.

**A**gainst an Hostler for a Horse delivered  
him to Pasture, which was lost by  
his negligence.

**A** B. nuper de C. in Comd p'dice  
Reom Attach fuit ad respond  
A. B. (&c.) Et unde idem A. per J. G.  
Atrozum suum queritur quare cum idem  
A. die, (&c.) anno, (&c.) apud A. quen-  
dam Spadonem ipsius A. precij decem  
libre ad depasturand ac salvo & secure cu-  
stodiend & eidem A. cum inde requisie el-  
let deliberand sup confidentiam fidelis de-  
liberaçom ejusdem Spadonis p p'dice A.  
eidem R. fiend ad depasturand & custodi-  
end deliberasset idem A. reddend & solvend  
p'fat A. p qualibet septimana qua idem  
Spado in pastura ejusdem A. depast' fuit  
duodecim denar legalis Monce Anglie  
p'd tamen A. de humoi fidel confidentia  
redeliberaçonis ejusdem Spadonis negli-  
gens & fidelis restituçonis ejusdem Spa-  
donis mie curans Spado p'dice postea  
scilicet



Misfe-  
sance. &c.

scilicet die, (&c.) anno, (&c.) apud *N.* p negligentiam p̄dice *N.* ac p defectu boni custodi Spadonis illius p quosdam malevolas Personas eidem *N.* penitus ignotum elongat fuit ad loca eidem *N.* penitus incognita per quod idem *N.* non solum de Spadone p̄dice penitus defraudatur de eorum etiam de omnibus easimentis commodis & p̄ficiis que ipse equitando circa diversa seria negotia ipsius *N.* diversimodo ei interim contingendū huisse & recepisce potuisset totaliter deprivare existit ad dampnum ipsius *N.* vigine librarum Et inde pduc Secam, &c.

See the like President, *Rob. Ent.* 23. *Br. Red.* 16.

Case against an Innkeeper, who let out the Plaintiff's Horse to hire without his License.

*N.* **S.** *N.* nuper de *B.* in Com p̄dice Innholder Attach fuit ad respondendū *T. W.* de placito t̄n̄gi sup Calum Et unde idem *T.* p *N.* *J.* Attorū suum queritur quare cum secundum Legem & Consuetudinem huius Regni Anglie hospitatores qui hospitia communia tenent ad hospitandū homines p partes ubi humoi hospitia existunt transeuntes & in eisdem hospitantes eorum Bona & Catalla infra hospitia sua p̄dicta ac Equos & Spadones suos infra stabula humoi hospitatorum existēdū absq subtrato

# Of Declarations.

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Misfe-  
sance, &c.



ne amissione extrapositione sive locakone  
bo & secure custodire die & nocte tene-  
tur ita qd p defectu negligentia sive  
curia humoi hospitatorum sive serbo-  
m suorum humoi hospicibus nec bonis  
a aberiis suis dampnum aliquod non  
veniat ullo modo Cumque etiam ps S.  
nte talem diem & annu scilicet) deci-  
o die Maij Anno (cc.) apud B. pdice  
ruit & custodivit commune hospitium  
cae Signum de le George and Dragon  
B. pdice ac pdictus C. in eodem hos-  
tio ut hospes ipsius S. adtunc & ibm  
spitavit ac quendam Spadonem ip-  
C. prij decem libzarw in stabulo ps S.  
pud B. ps sub custod ps S. & servien-  
zord ad pabulum (Anglice at Livery) in  
abulo ipsius S. infra hospitium suu pdctw  
lbo custodiendi & eidm C. cu inde requi-  
et esset redelibandi posuit pdctus tamen  
pmissozw non ignarus ac Regem &  
onsuetud pdctas mie curans set machi-  
ans & fraudulene intendens eundm C.  
Spadone suo pdcto totalie decipe & de-  
audare Spadonem pdctum absq licentia  
sius C. quibusda personis eide C. peni-  
s incognie extraposuit & locabit p quod  
pado ipsius C. ps ex multa malatrac-  
ne & abusu ps Personarw eide C. incog-  
e quib' Spado ipsi' C. ps p eunde S.  
atus fuit & p defectu bone custod ps  
interiit contra Regem & Consuetud ps  
dampnu ipsius C. vigine libzarw Et  
de pduc Secam, &c.

See the like President, 1 Brown. 80. Rob.  
10. Hern. 243.

Another

Another for a Mare put to Pasture.

**M**idds N. **A.** B. querit de C. D. in  
videt qd cum pdice C. primo die Junij  
Anno Regni Dñe Anne nunc Regine  
Angl, &c. primo apud, &c. in Conā qd  
id C. adtunc & ibi recepisset & huisset de  
eodē A. unam equā ejusdem A. Colozis  
Brown bay pñij 12 l. ad custodiendū & depa-  
sturandū Et in Conā inde 6 d. legalis mo-  
net Angl p quolibet die quo idem C. e-  
quā pdice Custodiret & Depasturaret eidē  
C. p ipm A. solvend' ac p 2 s. 6 d. sibi p  
ipm A. adtunc & ibidem pze manibz solue-  
super se Assumpsit & pzetac A. adtunc  
& ibidem fideliter pmisit qd' ipse idem C.  
equam pdice salvo & secure custodiret &  
eidem A. redeliberet quancūq; ad hoc  
p eundem A. requisit foret pdēus tamen  
C. pmissionē & assumptionē suā pd' mie cu-  
rans sed Machinans ipsum A. de equa illa  
callide & subdole decipere & defraudare  
equam ill' pfac' A. licet ad hoc p eundē A.  
postea scilicet (tali die & Anno) apud M.  
pdice requisit fuisset non delibabit sed e-  
quā ill' eidem A. redeliberare oīo recu-  
sabit & adhuc recusat unde idem A. dicit  
qd' ipse deteriorae est & dampnum habet  
ad valentē 20 l. Et inde producit Sta-  
ctam, &c.

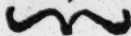
See Rob. Ent. 21. 29. & vide Thomp. 14.

For



For killing a hired Horse by immoderate  
Riding and Neglect, &c.

Misce-  
fance, &c.



**A.** B. Attach fuit ad respondens C.  
D. de plito quare cum idem A.  
p[ro]f[er]at C. quendam Equum ad equitand[um]  
I. usque M. p[er] quadam pecunie sum-  
ma tunc eos concozdat apud L. condurit  
idem C. Equum p[ro]dict[um] eidem A. ad  
equitand[um] a L. usque M. ibidem delibe-  
rasset p[ro]dictus A. Equum p[re]d[ictum] tam im-  
p[ro]p[ri]e & ino[rd]inate equitabit q[uo]d p[ro]p[ter]  
fugationem & indebite custodie ejusdem  
Equi Equus p[re]d[ictus] interit ad dampnum  
Ius C. decem libi &c. Et unde idem  
p[er] J. M. Attor[um] suum queritur quare  
cum idem A. (tali die & anno) apud L.  
quendam Equum (&c. ut sup[er]a usq[ue] delib[er]a-  
rasset) p[ro]dictus A. vicesimo die N. anno,  
&c.) Equum p[ro]dict[um] tam imp[ro]p[ri]e & in-  
o[rd]inate equitabit q[uo]d p[ro]p[ter] fugationem &  
indebite custodie ejusdem Equi Equus  
p[re]d[ictus] postea scilicet 25 die N. p[ro]dict[um] apud L.  
p[ro]dict[um] interit Unde idem C. dicit q[uo]d ipse  
exterior[um] est & dampn[um] habet a valenc[ia]  
sol. Et inde p[ro]duc. Sextam, &c.

Simile, 1 Bro. 40. Hern 101, 189. Ash-  
ton 49.

N

Against

Mistake,  
lance, &c.

Against the Defendant for immoderately loading and riding the Plaintiff's Horse, by which he died.

**N.** **C.** D. nup de (Hc.) attach fuit ad co. spond T. M. (Hc.) & unde idem T. p. J. D. Actoꝝ suum queritur quod cum idem T. die (Hc.) anno (Hc.) apud (Hc.) deliberasset p̄fac T. quendam Spadonem ipsius T. ad equitand' a Villa de P. in Com S. usq; D. in Com S. p̄ed T. Spadonem illum tam graviter onerabit & ipsum tanta celeritate enozmiter & immoderate p̄ed die (Hc.) anno (Hc.) apud (Hc.) equitabit qd Spado p̄ed p̄cij (Hc.) p̄onerationem & equitationem p̄ed interit ad dampnū ipsius T. trigine Libzard & inde pduc Sextam, Hc.

*Vide 1 Brownl. 214. Hern 101, 189.*

Actio super Casum pro captione averiorum & imparcatione eorundem in loco privat' &c.

**N.** **T.** B. ad respondend' R. S. de plit. quare cum secundum Consuetudinem Regni Dñe Regine Anglie hactenus usitae quilibet homo qui Averia alterius nomine districtionis in dampnum aut alie capere velit Averia illa in Partu publico & non in locis p̄vatis imparcatione teneatur ita qd p̄prietarius eorundem Averiorum

deteriorum attingere valeat ad cognito-  
nem huiusmodi districtonis ad Averia-  
m p Legem Angl debite replegiand vel  
saltem tempus imparcaſionis cognoscend  
dem C. (tali die & anno) quinquagint  
Oves ipsius R. apud N. in nomine di-  
strictonis cape abinde usq ad G. minabit  
& fugabit & in quodam Horreo ipsius C.  
qm imposuit & imparcabit p quod ac p  
velocem cursum minationis Obium pdic-  
tard ac arctam imparcaſionem earundem  
vigine Oves de Obibus pdictis in brevi  
tempore interierunt & Oves resid multi-  
plicie deteriorae & peiorae fuer ad damp-  
num ipsius R. vigine Libyard &c. Et  
inde idem R. p G. R. Attornd suum  
queritur quod cum (&c. ut antea) unde  
die qd deteriorae est, &c. ad valenc 201.  
Et inde pduc Sextam, &c.

See Rob. Entr. 87. and Winch Entr. 89.

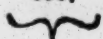
Against a Carrier for losing the Plain-  
tiff's Money and Goods delivered him  
to carry.

R. B. quer de C. D. in Custod Mart  
A. &c. p eo videlt quod cum pdict'  
C. (tali die & anno) & diu antea & temp  
postea hucusq fuit & adhuc existit Cois  
Tabellarius (voc a Carrier) p quibus-  
cunq rebus alicuius plone a Civitate  
Glouc in Com ejusdem Civis usq Civi-  
tatem London & a Civitate London pre-  
dict usq Civitat Glouc pdict' cariad Et  
idem



Misfeasance,

&amp;c.



idem C. eisdem die & anno & diu antea  
 continue postea hucusque usus fuit & con-  
 suevit p seipsum & serbientes suos super  
 Equos ipsius C. cariare Bona & Catalla  
 p quibuscumque Personis p rationabil & le-  
 gal stipendio & salario in ea parte inde  
 solvend carians ad ab & inter pdict' Civit  
 Glouc & Civitae London pdict' secundum  
 usual agreement & solutionem facient  
 habend' Cumq; etiam secundum Regem  
 Cons huius Regni Anglie omnes  
 Cōes Tabellarij qui recipiunt Bona &  
 Catalla de aliquibus Person' sic carians  
 p rationabil & legal stipend' & salario inde  
 dand' & solvend' tenentur ad custodiend'  
 carians eadem Bona & Catalla de tal  
 Person' sic recepe absq; spoliacione detrac-  
 tione sive pdictione eorundem Ita quod  
 aut p default tal' Cōium Tabellarioꝝ nul-  
 lum dampnū aliquo modo eveniat talib'  
 Personis p cariaconem Bonoꝝ suoz  
 Cumq; etiam pdict' C. ( tali die & anno  
 apud L. pdict' (videlicet) in Parochia (scilicet)  
 sup se suscepit ad carians' unum Arscum  
 Arice obserae (Anglice a Trunk fast lock-  
 ed) cum viginti Denar' Bonis & Catallis  
 ipsius A. ad valenciam nonagint' Libra-  
 rum in eodem Arisco tunc existend' saltem  
 secure a pdict' Civitae Glouc ad & usq;  
 Civitae London pdict' p quodam usuali  
 stipendio salario & rata p cariacone ejusdem  
 Arisci cum Denar' Bon' & Catall pdict' p  
 pzed' A. eidem C. tunc postea solvend'  
 Cumq; etiam pzed' C. postea scit (tal' die  
 & anno supradict') apud Civitae Glouc  
 pdict' recepit de eodem A. Arscum pzed'

# Of Declarations.

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Misfeasance  
&c.

in Denar Bonis & Catallis in eodem  
alio tunc ut p̄fertur oblerat existend in  
prima p̄dia' carianō fore p̄dia' tamen C.  
dia' Hiscum cum Denar Bonis & Ca-  
allis ipsius A. postea scit (tali die  
anno & loco) tam negligene & impvide  
modibit & cariatibit quod dibern Denar  
bona & Catalla ipsius A. (in p̄dia'  
alio ut p̄fertur ante tunc oblerat exi-  
end) scit trigine libe in Pecun̄ nume-  
ris un̄ par [ &c. as the Case is ] ad va-  
nciam (&c.) p negligene custod ipsius  
ad tunc & idm p̄dia' capē & asportae  
ei p Personas eidem A. penitus ignoe-  
ta quod p̄dia' A. Denar ill cum Bon̄  
Catall ulc mentionat abinde usq̄ diem  
hibitionis Bill p̄dia' scit (tal die &  
anno) non recepit seu habuit licet p̄dia'  
p ipsum A. postea scit (tal die anno  
& loco) ad deliband eidem A. Denar  
bon & catalla p̄dia' sepius requisie fuit  
nde idem A. dic quod ipse deteriorat est  
dampnū habet ad valenc 60l. Et inde  
duc Sextam, &c.

See Hern 26, 226. 2 Ven. 75. 2 Mo. Instr.  
10, 91. 1 Brownl. 193. Ashr. 62. Cl. Ass.  
60. Bro. Red. 12, 16. Thomps. 34.

Simile versus Hoyman and Waterman,  
Clif. 38. Vidian 37. 2 Mo. Instr. 92.

Simile pro Submersione bonorum, Clif. 39.

N 3

Another

Misfeasance,  
&c.

Another against a Carrier for not delivering a true Quantity of Cheese.

**S. R. T.** S. Iud nup de M. in Com  
respondens R. R. de plico transgi super  
casum &c. Et unde idem R. p C. P.  
Attoꝝ suum queritur quare cum pꝛ  
C. S. 30 die S. Anno Regni Domine  
Regine nunc pꝛimo & diu antea & temp  
postea hucusq; fuit & adhuc existit coꝝ  
Dectoꝝ Anglice, a Common Carrier, ut  
tae carriare bona & catalla quarumcuq;  
Personarum hujusmodi carriacon requi  
rend a loco vocat L. in Parochia de S.  
in Com pꝛed usq; Civitae W. in Com  
pꝛed capiend pinde de hujusmodi Personis  
stipendium & salarium Cumq; secundu  
legem & cons hujus Regni Anglie hu  
jusmodi communes Dectoꝝes bona & catalla  
Personarum hujusmodi carriacon requi  
rend eisdem Dectoꝝibus deliberat existend  
absq; subtractione seu amissione custodire  
teneantur ita quod p defectu hujusmodi  
communium Dectoꝝum seu servicij suoru  
hujusmodi bona seu catalla sic deliberat  
non sint subtrac' seu deperdie Cumq;  
etiam idem R. eodem 30 die Septem  
Anno pꝛimo supꝛadicto apud W. pꝛed pos  
sessionae fuisset de 275 Caseis Anglice  
Cheeses, ad valenc 40 l. ut de bonis &  
catallis suis pꝛe Et sic inde possessionae  
existend idem R. eisdem die & anno apud  
L. pꝛed requisivit pꝛed C. ad carriacon



bona & catalla usq; Civitae W. pdicta' & Misfeasance  
 & c.  
 in ibm eidem R. infra duas septiman  
 tunc pr' sequen' delibans pdictusq; C. bona  
 & catalla pdicta' sic ut pferitur carriand' &  
 deliband' ad tunc & ibm scit eodem 30 die  
 bepe Anno primo supradicta' apud L. pre  
 dicta habuit & recepit capiend' de eodem R.  
 onabil' salarium & stipendium p carri  
 and' ille Ac licet pdicta' C. postea infra  
 dicta' duas Septiman' usq; Civitae W.  
 dicta' 235 Caseos de Caseis pdicta' carria  
 vit ac ille eidem R. ibm delibavit idem  
 amen C. ceteros Caseos pdicta' pfac R.  
 apud Civitae W. pdicta' hucusq; non deli  
 bavit ad dampn' ipsius R. 40 l. Et inde  
 pduc' Sextam, &c.

Against an Attorney for making Default,  
 whereupon Judgment was given a  
 gainst the Plaintiff.

A. B. queritur de C. D. uno At  
 tor nato Cui Domine Regind de  
 Banco de eo quod cum idem A. (tali  
 die anno &c.) apud S. retinisset ipsum  
 C. essendi Attorn' & de consilio ipsius A.  
 in quodam brevi de dote versus ipsum  
 A. ad Sextam C. & J. Uxor sue impe  
 tra' retornabil' coram Justiciis Dñe Re  
 gine de Banco apud Westm' in Octab'  
 Sancti Hilarii tunc prim' sequen' & ad  
 comparand' p ipso ut Attorn' ad quemli  
 bet diem placiti in & sup brevi illo oppo  
 tunum capiendo de ipso A. quolibet ter  
 mino pendente bzi illo p feodo suo 3 s. 4 d.  
 N 4 unde

Misfance,  
8cc.

unde ipse tunc ibm solvisset p̄fac C. p̄  
manibus 3 s. 4 d. p̄ quod h̄re iidem C. &  
J. petierunt illis ipsum A. rationabi-  
lem dotem ipsius A. que eam continge-  
bat de libero tenemento quod fuit C.  
quondam Viri sui in S. unde nihil h̄uit  
ut dixerunt de quibus quidem Octab  
Billar loquela sup̄ h̄rebi p̄dia' continuata  
fuit coram p̄fac Justie die Domini  
Regis de Banco apud W. p̄ diversas  
continuaciones inde ibm factas & habie  
usq; in Octab' Sancte Trinitae anno (et.)  
Et ad eandem Octab' Sancte Trininae  
tamen p̄dia' C. & J. p̄ R. W. Attornd  
suum quam idem A. per p̄dia' C. At-  
tornd suum coram C. C. & sociis suis  
tunc Justie Dñi Regis de Banco p̄dia'  
apud W. comparuerunt & super hoc p̄res  
C. & J. petierunt versus ipsum A. ter-  
tiam partem Manerij de S. ut dotem  
ipsius A. ex dotatione p̄dia' C. quon-  
dam Viri sui & p̄dia' C. ut Attornd ipsius  
A. p̄ eo & ejus nomine petiit licentiam  
inde interloquendi ibidem usq; in Octab'  
Sancti Martini tunc primum sequend' &  
huit ex assensu p̄res C. & J. & idem dies  
dae fuit eisdem C. & J. ibidem & ad  
eandem Octab' Sancti Martini p̄dia' C.  
& J. in p̄fac Curia de Banco apud W.  
coram p̄fac R. D. & Sociis suis Justie  
Dñi Regis de eodem Banco p̄ Attorna-  
tum suum p̄res comparentibus & se ver-  
sus ipsum A. de p̄dia' placito offeren-  
tibus p̄dia' C. non comparuit sed ma-  
chinans ipsum A. tertiam partem p̄res  
cum p̄tincd' amittere fac ubi eadem J.

de eodem Manerio dotabilis non fuit ad-  
dunc & ibidem defale fecit per quod cons-  
tituit ibidem qd pd' C. & J. recuperarent  
sumnam versus ipsum A. de tertia parte  
qd cum p'ind per defale illam cum eodem  
A. de eodem Manerio cum p'ind dota-  
bilis non fuit ut est dictum Et sic idem C.  
ipsum A. falso & fraudulenter decepit ad  
dampnum ipsius A. centum Librarum  
unde petit remedium, &c. pleg de psequen-  
tia A. & C.

This Declation charges the Defendant  
also with a Deceipt.

See 1 Brown. 26, 33. Rob. 15, 37, 98.  
Bro. Red. 47, 50. Thomp. 21, 31, 43. Vidi-  
m. 16, 63. Read. Doc. 33, 80.

Case against a Sheriff for making a  
false Return.

**R.** & A. nup Die S. Attach fuit ab  
respondend' tam Comine Regine  
quam M. A. & C. Arozi ejus Executrici  
Cesti C. C. de placito quare cum p hze  
Dne Regine de judicio eidem nuper Die  
pdice Com S. direct' pceptum fuit quod  
de bonis & catallis que fuer' pdice C. in  
manibus pdice M. & C. Executricis  
Cesti pdice C. fieri faceret tam 15 l.  
quas J. C. in Cui Dne Regine de Banco  
hic scilicet apud W. recuperabit versus  
eos quam sexagine Solid' qui eidem J.  
in eadem Cui adjudicat fuer' p dampnis  
suis que huit octone detentonis pdice 15 l.



Misfe-  
sance, &c.

si tantum herent alioquin eisdem ser-  
gine Solid' de terris & catallis p'dic-  
tum M. & C. p'p'is in Ballia sua fieri  
faceret & quod p'dice 15 l. & sexaginta  
Solid' heret coram p'fate Justie hic ad  
certum diem in h'z p'dict contene ad red-  
dend' p'fate J. C. Et quambis p'dice M.  
& C. aliqua bona seu catalla que fuerunt  
p'dice C. tempore mortis sue nunquam  
debastaverunt seu eorum aliquis debasta-  
vit nec iidem M. & C. aliquos denarios  
de bonis & catallis illis p'beniend' in p'p-  
rios usus converterunt nec aliquis eorum  
convertit put iidem M. & C. viis & ma-  
dis quibus convenit parat sunt edoceri  
ut asserunt p'dice tamen nup' Vic p'dict  
Com' S. falso & malitiose ac contra facti  
sui debet' apud W. retornabit h'z p'dict  
coram Justie Dñe Regine de Banco hic  
ad diem in h'z p'dice specificat quod p'dict  
M. & C. nulla huerunt bona seu catalla  
que fuer' p'dict C. tempore mortis seu in  
manibus ipsorum M. & C. administrand'  
Sed quod iidem M. & C. omnia bona &  
catalla que fuerunt p'dict' C. tempore  
mortis sue vendiderunt & debastaverunt  
& denarios inde p'beniend' in p'p'ios usus  
suos converterunt ita quod p'dict 15 l. seu  
aliquam inde parcelлам fieri facer' non  
potuit p' quod p'dict M. & C. in p'p'is  
personis suis multipliciter deteriorat ver-  
ati & depauperat existunt in Dñe Regine  
nunc contemptum ac cur' ipsius Dñe Re-  
gine ac consuetudinum Regni sui Anglie  
deceptionem necnon ipsorum M. & C. damp-  
num 40 l. &c. Et unde iidem M. & C. qui

tam

in pro Dña Regina quam pro seipsis  
quuntur p A. P. Attorū suum querun-  
t quod cum per hzebe Domine Regine  
judicio eidem nuper Die p̄dict Com-  
direct' (tali die & anno) apud W. in  
com Midd a Cur Domine Regine de  
Banco hic eodem die emanans p̄cepte  
uit quod de bonis & catallis que fuerunt  
p̄dict C. in manibus [Et. ut supra] ac  
ontra sacri sui debitum apud Willam  
D. p̄dice retozū hzebe p̄dice coram p̄fate  
Justie Domine Regine de Banco hic  
videlt C. C. Milite & Sociis suis ad cer-  
tum die scit ad Octabas Sancte Trini-  
tatis in hzi p̄dice specificae quod p̄d M.  
& C. nulla huerunt bona seu catalla que  
fuer p̄dice C. tempore mortis sue in ma-  
nibus ipsorum M. & C. administrant sed  
quod iidem M. & C. omnia bona & ca-  
talla que fuer p̄dice C. tempore mortis  
sue vendiderunt & debastaverunt & dena-  
rios inde p̄venit in p̄prios usus suos  
converterunt ita quod p̄dice 15 l. seu ali-  
quam inde parcellam fieri facere non po-  
tuit, p̄ quod p̄dice M. & C. in p̄prios  
personis suis videlicet ob metu Arresta-  
tionis corporū suozū p̄textu cuiusda h̄bis  
Domine Regine de Capias ad Satis-  
faciendū quod ab hac curia hic super Re-  
cordo p̄dice emanabit circa victualium  
suorum collationem & aliorum necessari-  
orum suorum emp̄tionem palam intendere  
non audebant sed multiplice deterio-  
rae & depauperae existunt ad Domine  
Regine nunc contemptum ac Cur ipsius  
Domine Regine & legis & consuetus  
Regni

Misfe-  
sance, &c.

**R**egn sui Anglie deceptionem necnon ip-  
sorum M. & C. dampnum 40 l. Et inde  
pduc' Sextam, &c.

See *Rob. Ent.* 34, 59, 61. *Br. Red.* 379.  
*Vidian.* 6.

Case against a Sheriff for Escape of a  
Prisoner delivered over by the for-  
mer Sheriff leaving his Office.

London ff. **R**. queritur de C. D. &  
G. W. Die Civitatis Lon-  
don in custodiam M. & C. p. eo videlicet quod  
cum p'dice R. septimo die Januarij An-  
no Regni Domini Regis nunc decimo  
apud L. p'dice in Parochia Sancti Chri-  
stopheri in Warda de (Ec.) possessionem  
fuisse de ducentis & quinquaginta Libris le-  
galis Monete Angl' in pecunia numerata & de  
octingente libratibus ponderis Butiri viginti  
doliis Anglice Tunis casei ac de mille ca-  
seis ad valenciam ducentarum Librarum lega-  
lis Monete ut de Denariis bonis & ca-  
tallis ipsius R. propriis Et sic inde posses-  
sionem existentem ipse idem R. p'dice denar'  
bona & catalla extra manus & posses-  
sionem suas casualiter perdidit & amisit. Que  
quidem denar' bona & catalla postea scilicet  
eisdem die & anno apud Londoniam p'dice in  
Parochia & Warda p'dice ad manus &  
possessionem cuiusdam R. B. per inventio-  
nem debenerunt p'dice tamen R. B. li-  
cet bene sciebat denar' bona & catalla illa  
fore bona & catalla ipsius R. P. propter & ad  
ipsum



sum R. P. de jure spectare & pertinere  
achivans tamen & fraudulene inten-  
ns eundem R. P. de denariis bonis  
catallis illis callide & subdole decipere  
defraudare licet sepius requisit, &c. ei-  
m R. B. nondum deliberabit sed pdice  
nar bona & catalla postea scilicet pdice  
primo die Januarij anno decimo su-  
radito apud London pdice in Parochia  
dice & Warda pdictis ad usum & com-  
modum ipsius R. B. ppe convertit &  
disposuit ratione cujus idem R. P. p re-  
peratione dampnorum suorum ratione  
missorum sustentorum postea scilicet o-  
bo die Januar Anno decimo supradice  
secundum consuetudinem civitatis pdice  
tempore cujus contrar memoria homi-  
um non existit usitae & appbae in eade  
venit in Cur dice Dñi Regis tunc tene  
oram R. R. Milite tunc und Die civitae  
London pdice in computatorio suo sci-  
nae in Parochia Sancti Michlis in  
Woodstreet in Warda de Cripplegate  
London adtunc & ibm secundum consue-  
tudinem civitatis pdice levabit quandā  
querelam versus pdictum R. B. ad sectā  
psius R. P. in plito tñlge super calum-  
d dampnum quingentarum Librarum.  
Et idem R. P. adtunc & ibidem secun-  
um consuetudinem civitatis pdice in-  
venit pleg de psequend querelam suam  
pdictam scit J. C. & R. G. virtute pro-  
cessus super qua quidem querela ipse idē  
R. B. postea scit die (&c.) anno (&c.) in  
Parochia & Warda pdice p quendam J.  
G. tunc und servied ad Clavam dice Die  
&

Misfe-  
sance, &c.

Et Ministe Cur illius secundum consue-  
tudinem civitatis predictae adtunc Et ibi  
corpus ejus capere Et arrestare fuit predictis  
que R. B. sic arrestare existens ad lectam  
predictae R. P. ex causa predictae secundum con-  
suetudinem predictam pro defectu manuce-  
torum Prison dice Dñe Regine scilicet Com-  
putario in Woodstreet predictae scilicet  
in Parochia Et Warda predictis sub cu-  
stod predictae R. R. Mil Et cujusdam R. f.  
Mil tunc Die civitatis predictae debito modo  
commisus fuit Et predictae R. B. in  
custod eorundem Die ibidem abinde ma-  
rabatur Et detentus fuit usque diem (Et.) an-  
no (Et.) [quo die Et unno ule predictae  
pud London predictae R. R. Et R. f. in Pa-  
rochia Et Warda predictis ab Officio  
Die London legaliter Et secundum con-  
suetudinem civitatis predictae exonerati  
amoti fuerunt Et predictae C. D. Et G. W.  
eodem die (Et.) anno (Et.) apud London  
predictae in Parochia Et Warda predictis  
Officium Die civitatis predictae debito modo  
prece elece admisit Et jurati fuerunt se-  
cundum consuetudinem civitatis London  
predictae a tempore cujus contrarii mo-  
moriam hominum non existit usitae Et ap-  
probatae] Et abinde postea quousque ip-  
predictae R. R. Et R. f. nuper die delib-  
berat predictae C. D. Et G. W. modo die secun-  
dum consuetudinem civitatis predictae  
custod ipsorum C. D. Et G. W. custod  
Prisone predictae Et custod predictae R. B.  
ut prefertur detent in eadem Prisona  
lectam predictae R. P. virtute querele predictae  
detinend Et salvo custodiend pro eodem

Sheriffs re-  
moved, &c.

& G. W. in Prisona p̄dicta virtute  
erele p̄dict p̄ defectu manucaptorum]   
delicet eodem die, (q̄c.) anno (q̄c.) in  
rochia & Warda p̄dictis detent fuit  
undum consuetudinem civitatis p̄dict  
tamen C. D. & G. W. Officium suum  
ict vic civitatis p̄dict minime curad  
machinant & fraudulent intendent e-  
dem R. P. in hac parte de remedio  
o p̄ recuperatione dampnorum suorum  
taliter impedire & deprivare postea sci-  
et die (q̄c. anno (q̄c.) apud London p̄  
Parochia & Warda p̄dict p̄dict R. B. ex-  
a custod ipsorum C. & G. modo vic ci-  
tat p̄dict absque licentia & contra vo-  
ntatem ipsius R. P. evadere & ad lar-  
um quo voluit ire pmiserunt p̄dict R.  
de dampnis suis p̄dict vel de aliqua  
de parcella m̄ie satisfact existen] Et  
dict R. B. abinde continue hucusque in  
ois incognitis eidem R. P. totaliter  
bscondit ita quod p̄dict R. P. de aliquo  
remedio p̄ recuperatione dampnorum suorum  
omnino deprivatus existit unde idem  
R. P. dicit quod ipse deteriorat est & dam-  
um het ad valenc quingentarum Libra-  
um Et inde pduc Sectam, &c.

See *Vidion*. 15. 1 *Brown*. 18, 49. *Bro*.  
*Red*. 33. *Rob. Ent*. 9, 100, 303, 305. 3 *Lev*.  
42, 45. *Thomp*. 31. *Hans*. 48.

Misfeasance



Misfe-  
sance, &c.

Misfesance, &c. relating to a Man's  
Person.

Against a Barber for Shaving the Plaintiff  
with an ill Razor, &c.

¶ **A** B. nuper de (sc.) Barber Attach  
fuit ad respondend C. D. de pla-  
cito quod cum idem A. ad Barbam ipsi-  
us C. bene & artificialiter cum nobacula  
munda & salubri radere apud P. as-  
sumpsisset pcedice A. Barbam ipsius C.  
cum quadam nobacula immunda & in-  
salubri tam negligenter & inartificialiter  
rasit quod facies ipsius C. morbofa &  
scabiola devenit ad dampnum ipsius C.  
centum solidorum, &c. Et unde idem C.  
per W. C. Actorum suum queritur quod  
cum pcedice A. ad Barbam ipsius C.  
bene & artificialiter cum nobacula munda  
& salubri apud P. quinto die Octobris  
Anno (sc.) assumpsisset pcedice A. Bar-  
bam ipsius C. cum quadam nobacula  
immunda & insalubri tam negligenter &  
inartificialiter adtunc & ibidem rasit  
quod facies ipsius C. morbofa & scabi-  
ola devenit ad dampnum (sc.) Et inde  
pduc Sectam, &c.

See *Rass. Ent.* 2.

Against a Chyrurgion for neglecting the  
Cure of the Plaintiff's Leg.

**Q**uare cum idem Defens<sup>r</sup> sinistram  
tibiā ipsius Quer<sup>r</sup> casualiter le-  
vit bene & competene curand<sup>r</sup> apud D. p  
quadam pecunie summa p<sup>r</sup>e manibus so-  
le assumpsisset idem defens<sup>r</sup> curam suam  
circa tibiā p<sup>r</sup>dictā tam negligene &  
audulene apposuit quod tibiā p<sup>r</sup>dicta de-  
venit incurvae ad dampnū ipsius Quer<sup>r</sup>  
decem Lib<sup>r</sup>arū &c. Et unde idem Quer<sup>r</sup> p  
J. B. Attor<sup>r</sup>ū suū queritur quod cum  
&c. ut in a<sup>r</sup>.)

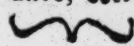
See Reg. Orig. 112. Rast. 463. Ash. 15.  
Hern 135. Clerks Aff. 259. Bro. Red. 59.

*In the King's Bench.*

Another against a Chyrurgion, upon  
an Express Bargain, and Money paid  
before-hand.

London ff. **E** G. Vid queritur de P. S.  
in custod<sup>r</sup> Mari, &c. p<sup>r</sup>ea  
videt<sup>r</sup> quod cum eadem E. (tal<sup>r</sup> die &  
anno) languebat de quadam infirmitate  
in & sup<sup>r</sup> Nasum ipsius E. co<sup>r</sup>iter vocae  
Noli me tangere, cumq<sup>ue</sup> etiam postea scilicet  
die & anno sup<sup>r</sup>radict<sup>r</sup> apud I. &c. p<sup>r</sup>ed<sup>r</sup> E.  
colloquid<sup>r</sup>

Misfe-  
sance, &c.



colloquid bens cum p̄dicto P. de & con-  
cerned curam infirmitatē p̄dicte idem P.  
(ad tunc & ibi affirmans seipsum fore  
Chyrurgū & in arte Chyrurgica eruditū  
& perit) bene & fideliter operam dare ad  
curand eandem E. de infirmitate sua p̄-  
dicta ac ad ipsam deinde faciend salubrem  
& sanam [tam p̄ quadam pecunie summa  
videlicet decem libris legalis Monete Anglie  
p̄ eandem E. eidem P. ad tunc & ibidem  
p̄re manibus solue quam p̄ & in conside-  
rationē al decem librarū quando p̄dict' P.  
infirmitatem illam contraheret (Anglice  
bring) infra spatium cuiusdam pecie Ar-  
genti (vocat Two Pence) ac etiam p̄ vi-  
gine libris amplius quando p̄res P. p̄re-  
fecte curaret eandem E. de infirmitate illa  
p̄ eandem E. p̄mis] sup se assumpsisset  
ac p̄dict' P. postea scit (tali die anno  
loco) p̄ considerationē p̄dict' sup se suscep-  
tū infirmitatis p̄dicte & applicabit  
apposuit dista emplastra & al medica-  
mene ad sanand & curand infirmitatem  
p̄dict' apud L. p̄dictam in Parochia  
Warda p̄dictis & abinde usq (talem diem  
& annū) Et idem P. infra tempus p̄res  
apud L. p̄res in Parochia & Warda p̄res  
distis separabilib' temporib' distas sepalas  
Denarioꝝ summas in toto se attingend  
ad vigine libe (ultra p̄dict' decem libe  
p̄re manibus ut p̄fertur solue) p̄ laborē  
& industria suis sup assumptiones & fide-  
p̄missiones ipsius P. quotidie eidem E.  
fact' ad curand & sanam faciend p̄dictam  
E. de infirmitate sua p̄dict' falso nequib  
sine & deceptibe requisivit recepit & huius  
p̄dict



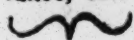
ia' tamen P. existens re vera totaliter  
iteratus & in Arte Chyrurgica inex-  
re sed avidus lucri ex deprecabat & ma-  
animo & malevola intentione machi-  
ns ipsam E. de denariis suis defraudare  
ipsam E. in curatione infirmitatis sue  
ia' decipere & diu detinere cum vanis  
rationibus illicitamentis & assertioni-  
s tam inexpertis & inartificialiter ap-  
plicabit & apposuit emplastra & al medi-  
menta p curatione infirmitatis p'dicta'  
tra tempus p'dicta' quod eadem E. rone  
gligentie inartificialitatis & inexper-  
tie p'dicta' P. in ea parte non solum cum  
abissimis penis doloris p totum tem-  
s p'dictu ex cruciae fuit veru etiam ra-  
ne inde & ex nequitia & malignitate  
ictu emplastro & al medicamento  
ut p'fertur in experte & inartificialie ap-  
plicae P'alus p'dicta' E. fuit & est penitus  
prodit & obesus (Anglice eaten off) ad  
agnam deformitatem ipsius E. unde  
quod ipsa deteriorae est & dampnu het  
valene ducene libraru &c. Et inde  
que Sextam, &c.

See First Brownl. 232. Bro. Red. 35, 59.

o. Vad. 9. Clerks Aff. 259.

De improvide agitation' Currus super Quer',  
c. Bro. Red. 484.

The next Presidents shall relate unto  
malefiance.

*Malefesance.*

In this Division may be reckoned all Wrongs and Injuries done by one Man to another, as it were purposely and without any Agreement or *Assumpsit* either express or implied; so that generally many of those Presidents before set down, as for Words, &c. and many of these that follow, as, Nefance, Rescous, &c. may be said to come under this Division: But because this small Treatise will not permit us to tarry much longer on this General Title of Actions on the Case; we will therefore draw to a Conclusion of it, and leave the Reader to observe the Presidents of the Nature of *Malefesance* at his better leisure, and amongst his larger Volumes.

Against the Defendant for keeping a Dog accustomed to bite Men.

II. **A**. nuper de (Hc.) attach fuit ad respondens C. D. de placito (Hc.) & unde (Hc.) Quare cum p̄dict' A. quendam Canem ad mordens Homines cons̄ apud M. scienter retinuit & custodivit qui quidam Canis ipsius A. ipsum C. tam graviter momordit quod idem C. magnos sumptus & expens̄ p̄ curatione mortis p̄dicti erogare & exponere coactus fuit ad dampnū ipsius C. trigine Librarū C. inde pduc̄ Sextam (Hc.)

The like for keeping a Dog accustomed  
to bite Sheep.

**H** Ad respondens C. W. de pfito  
quare idem H. quendam Canem  
mordens Oves consuevit apud S. Scien-  
retinuit & custodivit qui quidem Ca-  
is ipsius H. sexaginta Oves ipsius C.  
in bene tam graviter momordit quod  
duodecim Agni & decem Oves matricis  
speciei vixit Libzard de Obib<sup>9</sup> pdictis  
interierunt & Oves resid<sup>9</sup> multipliciter de-  
teriorae fuer<sup>t</sup> ad dampn<sup>9</sup> ipsius C. (Et.)

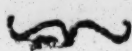
Upon this Dog-biting it is to be observed,  
That if one hath a Dog that doth use to  
bite Men or Cattel, and he knows thereof,  
and yet suffers him to continue; and I, or  
my Child, Servant or Cattel be bitten by  
him, whereby I suffer Damage, I may have  
this Action against the Owner of the Dog,  
Reg. Orig. 110. Dyer 25. Pl. 162, 29. Pl.  
195. Lib. Intr. 616. b.

It is further to be noted.

1. That the Dog must be used to bite.
2. That the Owner know thereof, yet  
Scient<sup>r</sup> is not traversable, but must be given  
in Evidence, 1 Cro. 350.
3. The Plaintiff in the Declaration must  
shew that it was the Defendants Dog at the  
time of the biting, otherwise it shall not  
be intended, Dyer 340.



Malefe-  
sance, &c.



4. If the Owner of the Dog, after the hurt done, shall bring him to the Master Father or Owner of the Cattel, &c. the suffer by him, and bid him do Justice upon him, this it's said will excuse him, 1 Co. 184. 7 Ed. 3. Bar. 290.

*Vide Presidents, Hern 249. 1 Brown 2 Ro. Entr. 77. Bro. Red. 43, 20.*

*Simile de Juvenca usitat' ad percutiend' b mines, Thoinp. 40.*

*Simile de Porcis percussis per Aprum, Bro Red. 73, &c.*

Case against the Defendant that entices an Apprentice to play at Cards, &c. to lose his Master's Money.

ff. **A.** B. attach fuit ad respondendū (tali die & anno) & continue abinde hucusque existit & adhuc existit Civis & liber homo Civitatis London videlicet liber homo Artis Pellipar London ac Inhabitans in London p̄dicta videlicet in Parochia (scilicet) ac eodem die (scilicet) anno supradicto & multos annos tunc p̄terite usus fuisset abinde hucusque usus fuit Arte Merchan- diz' de Civitate p̄dicta Cumque etiam idem C. eodem die (scilicet) anno (scilicet) in Parochia & Warda p̄dicta recepisset & retinisset ius servitij sui tanquam Apprentice suum quendam J. P. deservienti eidem C. tanquam Apprentice suo a (tali die &c.) usque finem septem annorum extunc p̄ seque- Idemque C. postea scilicet (tali die & anno apud

ad London' pdia' in Paroch (Ec.) & Malefe-  
cinue abinde usq; (talem diem Ec.) & Malefe-  
punctuasset & authorizasset dictu' J. & Malefe-  
eo fiduciam adhibuisset ad vendend' in  
merchandizis ipsius C. ad valenc' quin-  
tard' Libras legalis Monete Anglie  
recipiend' denar' Summas p' Merchandiz'  
sic vendit' Cumq; etiam pdia' J. a  
toto tempore quo pdia' C. ipsum J.  
servitio suu' pdia' sic ut p'fertur ecce-  
set eidem C. in negotiis suis servitij  
facti in omnib' bene & fideliter deser-  
set usq; dictu' (talem diem Ec.) anno  
(Ec.) apud (Ec.) pdia' Predia' tamen  
p'missa satis sciens ac malitiose ma-  
mans non solv' ipsum C. de bono & fi-  
li servitio p'ed' J. Apprentij sui penit?  
prohibere veru' etiam ipsum C. de pecu-  
is suis sub custodia pdia' J. existend'  
oliare postea scit pdia' (die Ec.) anno  
(Ec.) apud (Ec.) instigabit & procurabit  
ad J. adtunc Apprenticiu' ipsius C. sic  
p'fertur existend' seipsum absentare a  
servitio ipsius C. ac imbecillare & secum  
portare distas denarioꝝ Summas p'ed'  
C. Magistri sui in toto se attingend'  
centu' Libras legalis Monete Anglie  
ad ludend' cum eodem J. ad ludos il-  
licite videlicet apud Cartas pictas (Anglice  
Cards) Tabulas (Anglice Tables) & ad  
aleas (Anglice Dice) cu' denariis bonis  
metallis ipsius C. p'textu cuius quidm'  
instigationis & procuracionis pdia' J. Ap-  
prentic' ipsius C. ut p'fertur existend' postea  
est (tali die & anno) pdia' & p' quatuor  
etiam alios dies sepa't inf' eundem (talem  
diem

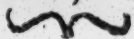
Makfe-  
fance, &c.

diem &c.) & decimū diem Martij anno  
(&c.) apud (&c.) seipsum absentabit a  
servitio ipsius C. Magistri sui & in eis-  
dem sepalibz diebz apud (&c.) imbecilla-  
bit & secum asportabit p̄dicta denar Sum-  
mas ipsius C. in toto se attingendū ad p̄ced-  
centū Libras ac cum eisdem denar sum-  
mis ipsius C. p̄ced p̄ p̄curacionem p̄ced  
A. cum p̄ced A. ad p̄dictos ludos illicite  
apud (&c.) ludebat p̄dictusq; A. p̄dictas  
denar Summas ipsius C. ad illicite ludos  
p̄dicta in p̄dictum (talem diem &c.) anno  
(&c.) apud (&c.) de p̄dicta J. falso & frau-  
dulente acquisivit & obtinuit cujus p̄textu  
idem C. non solum bonum & fidele ser-  
vitū p̄dicta J. a p̄dicto (tali die &c.) anno  
(&c.) usq; (talem diem &c.) anno (&c.)  
amisit & p̄didit verumetiam de denar sum-  
mis suis de p̄dictis spoliat & defraudat  
existit ad dampnū &c.

Another for enticing away an Appren-  
tice Maid.

W. ff. **W** H. nup de f. in Com p̄-  
dicta Geom & H. Ur' eius  
attach fuer ad respons J. S. Agricole de  
plito transgē sup Calum Et unde idem  
J. p̄ C. D. Attozū suū queritur quare  
cum idem J. duodecimo die Febr Anno  
Regni Dñe Regin nunc octavo & continue  
abinde hucusq; extitit & adhuc existit in-  
habitans in Parochia de C. in Com p̄-  
dicta ac eisdem die & anno supradictis &  
p̄ multos annos tunc p̄terit abinde huc-  
usq; usus fuit Arte sive Occupacione A-  
griculture





griculture Cumq; etiam idem J. eodem  
duodecimo die Febe Anno octavo supra-  
dicto apud C. pdice recepisset & retinuis-  
set in servitio suo tanquam Apprentie  
suam quandam A. S. Spinster ad deser-  
viend eidem J. tanquam Apprentie sua  
a pdicto duodecimo die Febe Anno octavo  
supradicto quousq; pdice A. attingeret ad  
plenam etatem viginti & unius anno-  
rum pdictaque A. pdicto tempore quo p-  
dice J. ipsam A. in servie suum pdice  
sic ut pfertur recepisset eidem J. in ne-  
gotiis suis servitij pdice in omib<sup>9</sup> bene  
& fidelie deservisset pdice tamen H. pmissa  
latis sciens set machinans & malitiose  
intendens ipsam J. de bono & fideli ser-  
vie pdice A. Apprentie sue penitus de-  
privare postea scilicet primo die April Anno  
Regni Domi Regis nunc nono & di-  
versis al diebus & vicibus ine diem illum  
& primum diem Octob Anno ult med  
apud C. pdice instigabit & procurabit p-  
far A. adtunc Apprentie ipsius J. ac  
adtunc & adhuc infra etae 21 annorum  
existend videlt apud C. pdice seipsam ab-  
sentare a servitio ipsius J. ptextu cujus  
quidem instigaconis & procuraconis p-  
A. Apprentie ipsius J. sic ut pfertur  
existend postea scilt eodem primo die Apr  
Anno nono supradicto & diversis aliis die-  
bus & vicibus ine eund primum diem  
April Anno nono supradicto & dictum pri-  
mum diem Octob isto eodem Anno seip-  
sam absentabit a servie ipsius J. ma-  
gistri sui rone cujus idem J. bonum &  
fidel servitum predice A. Apprentie  
sue

Malefe-  
sance, &c.

sue per tempus illud perdidit & amisit  
ad damnum ipsius J. 20 l. Et inde pduc  
Sextam, &c.

Another for entertaining a Man Ser-  
vant, &c.

N. R. **I** S. queritur de R. D. in Custod  
dictus R. D. primo die Maij Anno Reg-  
ni Dñe Regine nunc tertio apud E.  
quendam A. B. adtunc serbient dice J.  
S. sciens eundem A. adtunc fore serbient  
ejusdem J. in serbitium ipsius R. ppe  
recepit & eundem A. a pdice primo die  
Maij Anno decimo supradice usq; diem  
exhibicionis hujus Bille scilt 24 diem  
Octob' apud E. pdice custodivit & detinu-  
it & adhuc custodit & detinet contra vo-  
luntatem & consensum pdice J. S. & eun-  
dem A. pñat J. deliberare contradixit &  
adhuc contradic' licet adinde postea scilt  
(tali die & anno) apud E. pdice J. re-  
quisie fuit p quod pdict J. S. non solum  
serbitium pdice A. serbient sui verum  
etiam multa grandia pficua & commodi-  
tates que ipse per serbitium pdict A.  
habere & lucrari potuisset si pdictus R.  
ut pdictum est eundem A. non recepisset  
& custodivisset p totum tempus pdict  
amisit Unde idem J. die quod ipse dete-  
riorat est Et damnum het ad valene  
40 l. Et inde pduc Sextam, &c.

Another

Another against the Defendant for causing the Plaintiff's Maid Servant to quit her Service, and afterwards hiring her.

Malef-  
sance, &c.

**D. N.** **A.** Queritur de C. D. in custodi-  
cum quedam C. P. in servitio predicti A.  
apud B. in Com predicti (tali die & an-  
no, &c.) ad deseruiend eidem A. circa que-  
cunq; licita & honesta negotia ipsius A.  
p uno anno integro extunc pprox sequend  
perimplend rite & legitime retent fuit  
eademq; C. eo ptextu in servitio illo per  
spatium trium mensium diligenter occu-  
pae & usitat fuit per quod idem A. non-  
nullos labores & expens circa eandem C.  
huiusmodi occasione habuit predict tamen  
C. pmissorum non ignarus machinad p  
A. de servitio serviend sui predict ac de  
omni proficuo & commodo que ratione  
servitii illius haberet callide & subdole  
decipere & defraudare primo die Junij  
Anno, &c. apud B. predict predictam C.  
adtunc serviend predict A. ut pfertur existend  
a servitio suo predict recedere procurabit  
pextu cuius pcuracionis postea scilicet  
decimo die Junij anno supradicto predict  
A. a servitio predict A. absq; licentia  
& contra voluntatem ipsius A. recessit  
ac idem C. postea scilicet eodem decimo  
die Junij anno supradicto sciens ipsam  
C. fore serviend ipsius A. eandem C. apud  
B. predict in Com predict in servitium ipsi  
C.



Malice-  
fance, &c.

**C.** admisit condurit & cepit p quod idem **A.** totum pficuum easiamene & commo-  
ditae que ratione serbitij serbientis sue  
pdice p totum residu Terrii predicti adtunc  
ventur ppereret amisit & perdidit Unde  
idem **A.** dic quod ipse deteriorae est &  
dampnum het ad valene decem Libe Et  
inde producat Sequam, &c.

See *Herr.* 78, 160, 243. 1 *Brown.* 67.  
*Vidian.* 85. 2 *San.* 169. *Clerk's Man.* 73. 171.

For Arresting the Plaintiff, and holding  
him to special Bail, and detaining him  
a long time in Prison without Cause  
of Action.

**Pote ff.** **Q**uare cum pdictus **A.B.** ma-  
litiose machinans & inten-  
dens eundem **A.** minus iuste opprimere  
& pgravare ac ad ipsum **A.** Arrestari &  
in Prisona in defectu manucaptorum de-  
tinere pcurand (tali termino & anno)  
indebite & contra Legem huius Regni  
Anglie Deenon contra cursum & con-  
suetud ejusdem Cur dice Domine Regini  
cozam ipsius Regina psecue fuit extra e-  
andem Curiam (apud Westm in Com  
Midd tunc existend) in nomine ipsius **B.**  
quoddam hzebe dice Domine Regine de  
Latitat Dic Pote direce per quod quidd  
hzebe eadem Domina Regina pfae Dic  
Pote pceperunt quod caperet pfae **A.** si  
inbene foret in Ballia sua & eum salbo  
custod ita quod heret corpus ejus cozam  
dice

dice Domina Regina apud Westm̄ (tali  
fetoꝝ) ad respondendū p̄fac B. de p̄to  
filsge ac etiam Wille ipsius B. versus  
p̄fac A. p̄ centum Libris de debito secun-  
dum cons̄ ejusdem Cur' dice Dñe Rēe  
cozam ipsa Regind exhibens Et qđ heret  
ibi tñc hze illud Quod quidem hzebe p  
p̄dictum B. extra Curiam p̄dictam sic ut  
p̄fertur p̄secue p̄dice B. postea scilicet  
(tali die & anno supradicto) apud D. p̄e-  
dictam delibavit cuidam R. S. M̄it ad-  
tunc Vic Com̄ p̄edice existend Ac postea &  
ante fetoꝝ hzis p̄dice scit (tali die &  
anno supradice) p̄dictus B. mala inten-  
tione & p̄posic̄ eundem A. apud D. p̄e-  
dictam p̄ p̄dice R. S. adtunc Vic Com̄  
Note p̄edice existend virtute hzis p̄edice  
sibi direce & belibac capi & arrestari inde-  
bite procuravit ac ocfone inde eo quod  
causa Actionis in hzi p̄dicto specificae  
fuit de tam magna Summa scit Summa  
centum Librarum ita quod nullus ipsum  
Quer manucapere velit vel devenire ob-  
ligae p̄fac Vic Com̄ Note p̄dice in ea-  
dem Summa p̄ comparentia ipsius Quer  
in eadem Cur' dice Dñe Regine cozam,  
(&c.) p̄dict ad diem fetoꝝ hzebis p̄ed  
idem A. p̄o defectu sufficiend manucap-  
toꝝ in Prisona ibidem p̄ spatid quin-  
que septimanarum tunc p̄ox' sequend ad  
p̄urazonem p̄o B. indebite detent fuit  
ubi rebera p̄dict B. tempore arrestaco-  
nis & Imp̄isonamenti ipsius A. p̄dict  
non habuit aliquam causam actionis  
versus eundem A. que secundum cursum  
& consuetudinem Cur' dice Domine Re-  
gine

Malefe-  
sance, &c.

gine coram ipsa Regina aliquod speciale  
Ballium sive manucapcionem requirebat  
Nec pdictus B. unquam narravit sive  
breve suum pdict psecutus est versus eun-  
dem A. super comparentiam suam in ea-  
dem Cur ad retrod brevis pdict in ali-  
qua tali octone sed pdictus B. breve po-  
sic ut pferetur indebite & contra Regem  
necnon contra cursum & consuetudinem  
ejusdem Cur dict Domine Regine co-  
ram, (Ec.) impetravit & psecutus fuit ver-  
sus eundem Quet ex mera malitia pced  
erga eundem A. & absque aliqua Causa  
sive Actione pinde ad ipsum A. injuste  
pgravand & opprimend in forma pdicta  
Unde idem A. dicit quod ipse deteriorat  
est & dampnum het ad valentiam, (Ec.)  
Et inde pducit Sectam, Ec.

See Presidents, 1 Brown. 36. Clif. 33, 34,  
35. Bro. Red. 47, 50, 50, 61. Thomp. 72, 59.  
Vidian. 36. Hansf. 53. Rob. Ent. 90. Clerk's  
Ass. 213, 230, 255, &c.

Simile in Cur. Admiralitat' Rast. 23.

Simile in Cur. Christian. F. N. B. 92.

Simile in Cur. Principalitat' Wall. Rob.  
Ent. 16.

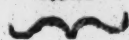
Simile post breve de Error. allocat. Hern  
233.



For disturbing the Plaintiff in his Of-<sup>Franch'es</sup>  
fice of Steward, and taking his Pro-<sup>lasis.</sup>  
fits, &c.

**Midd'.** **T.** **S.** **Ni** queritur de **M. N.**  
**Ni** in custod **Mari**, &c. p  
videlt quod cum idem **C.** (tal die &  
anno) & continue postea hucusq; seistus  
fuit & adhuc seisse existit de **Officio** **Se-**  
**neshalli** sive **Seneschalorum** **Dominio**  
sive **Manerio** de **Stepney** alias **Ste-**  
**unheath** & **Hacknigh** alias **Hackney** in  
**Comitatu** **Midd'** p se vel sufficientem **De-**  
**putatum** suum exercens & exequens ut  
de libo tenemento p termino vite ipsius  
**C.** pdict **M. N.** pmissa pdice satis sciens  
sed machinans & fraudulent' intendens  
ipsum **C.** de **Officio** pdice ac de vadis feo-  
dis commodis & pficiis eidem **Officio**  
spectantibus & que ratione exercitij offi-  
cij illius de jure here & percipere deberet  
& posset excludere & impedire postea scilt  
pdict' die (&c.) anno (&c.) supradicto apud  
**S.** als **S.** pdict' in **Com'** pdicto exerciti-  
um officij pdicti sine **Licentia** & contra  
**Voluntatem** ipsius **C.** super se suscepit &  
continue postea abinde usque diem exhi-  
bitionis hujus **Bille** scilt quartum diem  
(&c.) anno (&c.) officium pdict' injuste ex-  
ercuit & occupavit & ipsum **C.** officium  
suum pdictum exercere & feoda vad pro-  
ficia & emolumenta inde recipere & here  
p totum tempus pdictum impedivit & ex-  
clussit p quod idem **C.** totum pficium  
officij

Franch'es  
læsis.

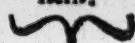


officij sui p̄dicti totaliter p̄didit & amittit  
Unde idem C. dicit quod ipse deteriorat est  
& dampnum h̄c ad valenc̄ mille Librarum.  
Et inde p̄duc̄ Sextam, &c.

See Rast. 5. Hern. 232. Bro. Red. 483.  
I Brownl 59. Read. Dec. 138. 144, &c.

For entring of a Liberty of a City, and  
Arresting upon the Sheriff of the  
County's Warrant.

**R** H. Adā Majoris & Civium Eboracorum de placito t̄nsḡ sup̄ Casum, &c. Et unde, (&c.) queritur quare cum eadem Civitas est antiqua Civitas & p̄ nomen Civitatis Eborum a tempore cuius contrā memoria hominum non existit vocatur & nuncupatur ac eadem Civitas Eborum est & a toto tempore sup̄radicto fuit incorporat' de Majori & Civibus Quodque infra civitatem illam ac Libertat' & Franch'es ejusdem sunt & a toto tempore sup̄radicto fuerunt annuatim quolibet anno duo Vicecomites qui fuerunt electi & jurati p̄ Majorem & Cives Civitatis Eborum p̄ tempore existend' infra Libertates Precinct' & Franch'es ejusdem civitatis de liberis hominibus civitat' Qui quidem Vic' ejusdem civitatis p̄o tempore existend' a toto tempore sup̄radicto usi fuerunt & habere consueverunt & debuerunt retord' & executōm omnium h̄zium p̄cess' Warrantorum & Preceptorum eis direct' infra civitatem p̄dictā



Libertatē & Precinctū ejusdem in aliquo  
modo quocumq; fiens & exequendū ita qd  
nullus alius Minister sive Officiarius  
Dñe Regine nunc vel Progenitorū suorū  
Regum seu Reginarum Anglie aliqua  
via Processus Precepta sive Warranta in-  
tra Libertatem Civitatis sive Precinctū  
dictā p totum tempus dictā exequi pmit-  
tetur dictus tamen R. pmissorum non  
ignarus sed machinans eisdem Majo-  
rem & Cives in hac parte disheredare  
tal die & anno) ptertu cuiusdam War-  
ranti p quendam J. M. At tunc Dic-  
tor Eborum existend fact' & plac' R. H.  
dict' in Civitatem pdictam infra Liber-  
tatem & Precinctū Majoris & Civium pze-  
trabit ac quendam J. B. ad runc colore  
Warranti pze cepit & arrestabit ac ipsum  
in eadem civitate in Prisona Ecclesie Ca-  
thedralis Dñi P. in Eborum (vocat les  
Ministres Garch) infra Libertatem & Pre-  
dictā pdictā imprisonabit ad disheredato-  
nem eorundem Majoris & Civium ac le-  
sionem Franchegarum civitatis pdictā  
Ande die (&c.) dampnum 200 l. Et inde  
duc Sextam, &c.

See 1 Brownl. 70. Hern 103, 225. Bro.  
Red. 47.

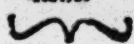
Simile pro Guardiano & Ballivo Liber-  
tatis. Thomp. 42.

Simile pro Domino Hundredi vers' Bal-  
livum Vic'. Winch. 83. Vidian 55.

Pro erection' de un Novel Market.  
Saund. 172.



Franches'  
laus.



The like for entring a Bishop's Liberty,  
and Arresting without Licence.

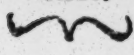
Hanc si. **J**ohes Epus Roffen queritur  
de J. R. in custod Mare, &c.  
p eo videt quod cum idem Epus (tali  
die & anno) & diu antea & adhuc habet  
& habere debeat retorū omnium Brevid  
Process & Warrane infra Civitate Roffen  
in Com Hanc pdict' emergend & contingend  
necnon executionem eorundem Brevidum  
Process & Warrantoꝝ p Serbiend & Mi-  
nistrum vel Serbientes & Ministros suos  
ejusdem Libertatis infra Civitatem pre-  
dictam a tempore in tempus faciend una  
cum omnibus feodis pficuis pquisit &  
conmoditatibus p retorū & executione hu-  
jusmodi Brevidum Process & Warranto-  
rum de jure debet & consuec solvend Ita  
quod nullus Viceromes & Subviceromes  
aut alij Ministri dict' Dñe Regine nunc  
infra civitatem illam ingrediantur ad  
executionem Brevid Warrantoꝝ vel ali-  
quod aliud officid ibidem faciend pdictus  
tamen J. R. pmissorum non ignarus sed  
machinans & fraudulene intendens eun-  
dem Epum in hac parte opprimere & de-  
fraudare pdict' (tali die & anno) apud  
Parochiam (&c.) infra pdictam civitatem  
Roffen in Comitatu pdicto existend & infra  
Libertatem ejusdem Epd pdictam quen-  
dam C. D. [p̄textu cujusdam Warranti  
pdict' J. R. p R. S. Militem tunc Vice-  
comitem Comitatus Hanc p̄ed virtute  
hij

his die' Dñe Regine de Latitat extra  
Curiam die' Dñe Regine coram ipsa Re-  
gina apud Westm tunc existend emanand  
Sectam cuiusdam R. O. Gen de plito  
transgi Ac etiam Bille ipsius R. O.  
sus pfac C. D. p quinquagine libris  
dicto Vicecomiti Comitae Hanc pred'  
direct' & coram die' Dña Regina apud  
Westm pdictu ad certum diem in eodem  
rebi contene retornabil absq licentia vel  
consensu pres Epi vel ejus Servien vel  
pmissi prius inde habie vel petie cepit &  
arrestabit ad dampnu ipsius Epi centu  
libraru Et inde pduc Sectam, &c.

For rescuing a Prisoner Arrested out of  
the Custody of the Officers.

Item ff. **A**. B. queritur de C. D. in  
Custod Marit, &c. p eo  
videt quod cum quidam L. M. (tali die  
anno) apud R. in Com pdict' condictisset  
& disposuisset Bona & Catalla ipsius M.  
ad valentiam ducene Librarum legalis  
monete Anglie Cumq pdictus M. p re-  
patone dampnoꝝ suoꝝ razione inde po-  
tea scit (tali termino & anno) in Cur  
die' Dñe Regine coram ipsa Regina (ea-  
dem Cur tunc apud Westm in Com Midd  
existend) pserue fuisset extra eandem Cur  
quoddam hze die' Dom Regine de Latitat  
sus pdictum L. Vic Com Somers direct'  
quod quidem hze die' Dña Regina pfac  
tunc Vic Somers preperunt quod capet  
pdict' L. si indene foret in Ballia sua &  
cum

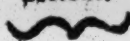
Rescue.

 eum salvo custodiret ita quod heret cor-  
 pus ejus coram dia' Dña Regina apud  
 Westm die Veneris pr' post Crum Sta-  
 Trinitat ad respondend eidem A. de pli-  
 to transgi ac etiam Wille ipsius A. s'us  
 eundem L. p constone & disposicione Bo-  
 noꝝ & Catalloꝝ ipsius A. ad dampnum  
 ipsius A. ducentarū Librarū secundum  
 cons Cui ipsius Dñe Regine coram ipsa  
 Regina exhibend & quod idem tunc die  
 Somers adtunc heret ibi hze illud quod  
 quidem hze de Latitat tunc psecue fuit p  
 ipsum A. ea intencione quod p'dia' L. ca-  
 peretur & custodie Mar' Marese Dñe  
 Regine committeretur ac quod p'dia'us  
 A. in eadem Cui dia' Dom' Regine hic  
 narraret & psequeretur Billam suam  
 s'us p'fac L. p recupacone dampnoꝝ  
 suoꝝ p'dia'oz octone p'ed' Quod quidem  
 hze de Latitat p'dia' A. postea & ante re-  
 toꝝ ejuldem h'is scit (talibus die &  
 anno) apud R. p'ed' in Com' Som' p'ed'  
 delibari fecisset cuidam P. O. Armig'  
 tunc Vicecomiti Com' Somers p'dia' ex-  
 istend in debita juris forma exequens vir-  
 tute cujus quidem h'is p'ed' P. O. (tunc  
 Vicecomiti Com' Somers p'ed' existend) po-  
 stea & ante retoꝝ ejuldem h'is scit eis-  
 dem die & anno ule supradia' apud R.  
 p'ed' in Com' p'ed' fecit & direxit quod-  
 dam Warrantum suum in scriptis sigillo  
 ipsius P. O. officij sui Vicecomitis Co-  
 mitatus Somers p'ed' sigillae quibusdam  
 J. G. R. W. (Sc.) Ballibis suis itine-  
 rand p hac vice tantum & virtute h'is p'ed'  
 diati eidem Vicecomiti in forma p'dia'  
 direct'



reca' eisdem J. G. R. W. (Ec.) & eorū  
libet p̄ pdia' Warrantum mandasset  
quod ipsi seu eorū aliqui capent seu aliquis  
eorū caperet pdictum L. si (Ec.) &  
eum duci facerent seu (Ec.) ad Prisonam  
sue Regine p̄ Com̄ Somers̄ p̄ced' apud  
in Com̄ Somers̄ p̄ced' custodi ejusdem  
prisona ibidem deliband' salvo & secure  
custodiend' ita quod heret corpus ejus  
p̄am dict' Dña Regina apud Westm̄ die  
(Ec.) p̄r' post (Ec. as in Retorū h̄is) ad  
respondend' eidem R. de plito & Villa p̄  
ce virtute cujus quidem Warranti p̄ce  
ai J. G. R. W. (Ec.) postea & ante  
Retorū ejusdem h̄is scit (tal' die anno  
loco) in Comitatu pdicto infra Balli-  
am ejusdem Vicecomitis pdict' L. cepe-  
runt & arrestaverunt & ipsum in custodia  
huerunt pdictus C. D. postea scilicet  
eisdem die & anno ule supradictis apud  
pdict' in Com̄ p̄ced' (p̄fac L. tunc &  
eisdem in custodia eorundem J. G. R.  
D. (Ec.) existend' in & sup̄ pdictos J. G.  
R. W. (Ec.) insultum fecit & pdictum L.  
extra caplonem & arrestationem p̄ced' &  
extra custodiam ipsorū J. G. R. W. (Ec.)  
dictam contra voluntatem eorundem J.  
G. R. W. (Ec.) cepit & rescussit ita quod  
idem Vicecomes non potuit here p̄ced' L.  
p̄am dict' Dña Regina apud Westm̄ p̄  
out eidem Vicecomiti ut pdicitur p̄ceptū  
nit Et pdictus L. post rescussum pdictū  
in forma pdice face non solum seipsum in  
partibus transmarinis & locis eidem R.  
negod' subtraxit ita quod nunquam po-  
tea fuit aut in futuro capi vel arrestari

Rescue.



potuisset p̄ p̄dictis dutene lib̄is aut debito modo implitari verum etiam in bonis & fortunis suis ita depauperat erit sit quod nihil omnino ei restat p̄ quod p̄dictas ducene lib̄as vel aliquem inde denar eidem A. satisfaciatur unde idem A. dicit quod ipse deteriorat & est & dampnum habet ad valene (&c.) Et inde p̄duc & etiam, &c.

See 1 Brownl. 255. Ash. 59. Hern 68, 241. Bro. Red. 48. Hansf. 8, 32, 47. Rob. 21.

Versus Rescussor' bonorum capt' nomine di- strictionis, &c. Rob. 12. Bro. Red. 42, 59.

Note, If a Man be taken at my Suit on a Mean Process, as a *Latitat* or *Capias* only, and another Man rescue him, and so he get away, I may have this Action, and recover the Debt and Damage against the Rescuer.

And if it were after Execution, or upon a *Capias Utlagatum*, I may sue him that made the Arrest and suffered the Escape, and he may have his Counter-remedy against the Rescuers; and some say I may have this Remedy against a Sheriff or Goaler, when by mean Process before Execution: Others say not, because the Sheriff may plead the Rescue, and that he made a Return of the Rescuers, so that the Plaintiff may have his Action against them—

And yet if the Sheriff shall bring him into the Goal, and thence suffer him to escape, this Action will lie for the Escape. *Vide*

1 Cro. 33, 77. Dyer 212, 241. 3 Bul. 198.

Prob.

## Of Declarations.

215

Popb. 189. F. N. B. 102. 1 Cro. 53. 2 Cro. Deceit.  
89, 360, 361, 419.

See the late Act made against Rescuers of  
Persons Arrested in pretended privileged  
Places, &c.

### Deceit.

**T**HIS Action of Case doth many times  
arise about some matter of Deceit,  
And it is said to be either Original or  
Judicial.

1. Original, for any Deceit used or done  
by one to another.

2. Judicial, where some Officer, as Sher-  
riff, uses Deceit in executing Her Maje-  
sties Precepts, as to make a false Return,  
or the like.

So that some of the Presidents foremen-  
tioned may be applied to this Head.

As against Sheriffs for their Returns, At-  
torneys for acting without Warrant, or do-  
ing against or besides his Office, or for doing  
that in his own Name, or for his own Use,  
which he is appointed to do for me, or in  
my Name.

So against a Counsellor or Attorney for  
discovering my Evidences, or other my Se-  
crets, which I have shewed to him, to my  
Prejudice; or for procuring himself to be  
retained on the other side, &c.

It also lies against a Man that shall per-  
sonate me in any Court, to do me some  
Prejudice, as to suffer a Judgment to be had,



Deceit.

acknowledge a Suit, or Recognizance, or enter into Bail in my Name to my Hurt or Damage.

So for Counterfeiting Letters in my Name to receive my Money.

So for cheating me at Play with false Dice or Cards, and in many other things of the like nature.

And indeed generally all Actions for Breach of Promise, suppose a kind of Deceit by these Words *Callide & Subdole decipere & Defraudare*.

This Action of Deceit also lies upon Contracts, Bargains and Sales; As when a Man sells me any living or dead thing, as Cattel, Cloth, or the like; and at the time of the Sale he doth warrant it to me good and right, and it be otherwise, which being the most usual Deceit, I shall confine my Presidents in this kind.

Also some of this kind arise upon the Warranty of the Seller, and some without Warranty.

If therefore one sells me a Horse, and warrant him sound Wind and Limb, and he hath some secret Disease, as if he be Shoulder-shot, Broken-winded, &c. I may have this Action.

So if one sell me Cattel or Goods that are none of his own, and they be taken away from me, or I am molested about it by the right Owner, &c.

So if one sell me corrupt Victuals without any Warranty, I may have this Action for his Deceit.

But for selling me sophisticated Wares, or an unsound Horse; and I taste the Wares before-hand, and like and accept it; or I see and know the Horse to be unsound, without Warranty I may not sue him for this.

And some say it will not lie upon the Warranty, when the fault is apparent that the Buyer may discern it; as when the Seller doth warrant the Cloth to be Red, and the Buyer hath seen them, and they be Blue; or he doth warrant a Horse to be sound, and he hath a Splint, Spavin, or is Lame, 13 H. 4. 2. 7 H. 4. 14. 5 H. 7. 41. 20 H. 6. 37. 31 H. 6. 11.

So when the Warranty doth extend to a thing to come, as that the Horse shall carry a Man thirty Miles a day, *Finch.* 188.

So when the Warranty is made after the thing is sold, and is no part of the Contract: And yet such an after-warranty, if it be by Deed, may amount to a Covenant, 5 H. 7. 41. 11 *Ed.* 4. 6. *F. N. B.* 98.

For selling the Plaintiff a Farrow Cow, and warranting her to be with Calf.

**A.** B. nuper de (Ec.) attach fuit ad respondens C. D. de placito quare cum idem C. cum p̄fate A. ad tres Vaccum ipsius A. ab eodem A. emend' apud L. barganizasset p̄dictus A. sciens unam Vaccam de Vaccis illis fore sterilem [Anglice Farrow] & unam aliam Vaccam [de Vaccis illis] tres tantum rumas (Anglice Bags) here omnes Vaccas

Deceit.

**cas** illas fore gravidas cum vitalis  
 (Anglice with Calf) & pfect' (Anglice  
 Right and Streight) ibidem Warrantizan-  
 do tres Vaccas illas pro quadam Pe-  
 cunie summa (pfae A. p eundem C. in  
 manibus solue) & diversis Bonis & Ca-  
 tallis ipsius C. similiter in manibus ei-  
 dem A. deliberat falso & fraudulene ven-  
 didit ad dampnum ipsius C. duodecim  
 Librarum, &c.

See 1 Bro. 15. Thomp. 40. Cl. Man. 148.

De ovibus, &c. Warr' fore sanas, 1 Bro. 30.  
 Cl. Man. 111. Simile de Equis, &c. Clif.  
 932, 933, 936. Vid. 10. Hansf. 84. Tho.  
 30. Ash. 35.

De vino insalubri, Clif. 938. Hern 92.

De Panno, &c. Tho. 34. Bro. Red. 18, 80.

For selling the Plaintiff bad Woollen  
 Yarn, and warranting it good to make  
 Cloth.

**H.** G. nup de (&c.) attach fuit ad  
 ad respondens R. S. de placito  
 quare cum idem R. cum pfae H. ad duo-  
 decim parcel (Anglice Abbes) fili lanei  
 ab eo emend apud D. barganizasset pre-  
 dictus H. sciens filum laneum illum falso  
 & fraudulene fact' & ad pannum laneum  
 conficiend' minime bonum filum lineum  
 illi falso & fraudulene fact' ad pannu la-  
 neum bene conficiend' warrantizand' p vi-  
 gine Libe pfae R. adtunc & ibidem falso  
 & fraudulene vendidit ad dampnu ipsius  
 R.



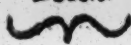
**R.** trigine libzarum &c. Et unde idem  
**R.** p **J. B.** Altozū suum queritur quare  
 cum idem **R.** cum p̄fac **H.** ad p̄ed duo-  
 decim parcel (Anglice Abbes) fili lanei  
 ab eo emend (tali die anno & loco) bar-  
 ganizasset p̄ed **H.** sciens filum laneum  
 illum falso & fraudulene fac' & ad pannū  
 laneum conficiendū minime bonum filum  
 laneū illum falso & fraudulene fac' ad  
 pannū laneū bene conficiendū warranti-  
 zando p̄ p̄dice vigine libzis p̄fac **R.** ad-  
 tunc & ibi falso & fraudulenter vendidit  
 ad dampnū ipsius **R.** trigine Libzarum  
 Et inde pduc' Sextam, &c.

See *Thomp.* 34. De Caseo & Butyro, &c.  
*Clif.* 935.

Upon a Warranty of Horses to be as  
 sound as any Horses in *England*.

**R.** **G.** queritur de **H. P.** in Custod  
**R.** Marc &c. p eo videlt quod cum  
 primo die Maij Anno Regni Dom Anne  
 nunc Regine Anglie &c. primo apud Lon-  
 don p̄dice videlt in Parochia Beate  
 Marie de Arcubus in Warda de Cheap  
 London quoddam colloquium motum &  
 habitum fuisset inter p̄fac **R.** & p̄ed **H.**  
 de & concernend venditōn teium Equoz  
 eidem **R.** p p̄fac **H.** idem **H.** sup collo-  
 quio illo adtunc & ibidem p & in conside-  
 ratione quinquagine Libzarum legalis  
 Monete Anglie p ipsum **R.** eidem **H.** ad-  
 tunc & ibidem agreeae solvend bargani-  
 zabit

Deceit.



zabit & vendidit eidem R. ad opus & usum  
 ipsius R. ppe pdictos tres Equos (ac  
 tria Dorsalia Anglice Horse-cloaths tres  
 Cingulas Anglice Circingles & tria frenas  
 Anglice Bridles) ac adtunc & ibidem bar-  
 ganizando warrantizabit & affirmabit  
 pdicto R. quod pdicti tres Equi tam sani  
 fuerunt quam aliqui Equi in Anglia  
 (excepe unū Equorum pdictorum qui tunc  
 habuisset infirmitatem in una tibiariū  
 suarū & idem R. in facto dicit quod  
 pdicto tempore venditionis & warrantie  
 pdicti fuerunt sani Equi in Anglia apud  
 London pdice in Parochia & Warda pre-  
 dice quodq; unus pdictorum Equorum ad  
 quam pdictus Equus qui huit infirmita-  
 tatem in uno tibiariū suarū pdicto tem-  
 pore venditionis & warrantie pdice fuit  
 insanus & putridus in corpore suo videlicet  
 in pulmonibus & visceribus suis & nul-  
 lius usus eidem R. debent sed de infir-  
 mitate illa infra hęc tempus postea scilicet  
 decimo quinto die Maij Anno primo su-  
 pradicto apud London pdice in Parochia  
 & Warda pdictis interiit Et sic idem R.  
 pfatum R. warrantie ipsius R. pdice  
 fidem adhibens contra formam warrantie  
 & affirmationis suarū pdice adtunc & ibi-  
 dem falso & fraudulentē decepit Cumq;  
 etiam idem R. postea scilicet (tali die &  
 anno) apud London pdice in Parochia  
 & Warda pdice ad tres alios Equos de  
 eodem R. p quadam denariū summa inf-  
 eos agreeat solvendū bargainizasset idem  
 R. adtunc & ibidem bargainizando  
 warrantizabit & affirmabit prefato  
 R.

**R.** quod iidem Equi fuerunt tam sani quam aliqui Equi in Anglia excepe und Equorum illoz qui adtunc habuiffet quandam infirmitatem in una tibiaturum sua ubi reuera unus Equorum predice ule mentonae al quam predictus Equus ule mentonae qui habuiffet infirmata- tem in una tibiaturum suarum predicto tempore venditionis & Warrantie pre- dice ule mentonae fuit insanus & pu- tridus in corpore suo uidet in pulmonib⁹ & uisceribus suis & nullius ulus eidnd **R.** debent sed de infirmitate & insani- tate illis postea scilicet (talie die, &c.) anno quinto supradicto apud London p- dice in Parochia & Warda pdictis inte- riit Et sic idem **H.** plac **R.** Warrantie ip- sius **H.** pdict ultimo mentonae fidem ad- hibens adtunc & ibm falso & fraudulentet decepit unde idem **R.** dicit quod ipse de- teriorat⁹ est & dampnum het ad ualene centum Libzarum Et inde producat **Se- ctam, &c.** Cum hoc quod idem **R.** verifi- care uult quod tempore vendiconis & Warrantie pdict⁹ superius ult⁹ mentio- nat⁹ fuerunt sani Equi in Anglia uidet apud London pdict⁹ in Parochia & War- da pdict⁹, &c.

See *Rast.* 9. *Hern.* 169. *Plit. Gen.* 18. 2 *Mo. Intr.* 89. See *Reg. Orig.* 189. Et *uide ante.*

*Note,* It is said, That when one buys a Horse upon a Warranty that he hath both his Eyes, and it is apparent he hath but one of them, no Action will lie against the Sel-  
ler,



Deceit.

ler, because the Buyer might have discovered it; but it is otherwise where the thing is secret, and lies only in the knowledge of him that doth warrant; but the Law gives no Remedy for voluntary Negligence, 1 Cro. 386, 631. 3 Bul. 94, 95.

*Note*, upon Sale and Warranty of two unsound Oxen, and Defendant found guilty but of one, upon motion in Arrest of Judgment, because of the Warranty alleged was joint; & ergo not the same Warranty: The Court held it good, for the Action is founded upon the Deceit, not upon the Contract, 1 Cro. 884.

For selling and warranting the Plaintiff a Horse, for which the Plaintiff was impleaded in the Hundred Court by the Owner, &c.

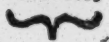
II. **A.** B. nuper de (Hc.) ad respondens  
**C.** D. de placito Quare cum i-  
 dem C. ad quendam Equum de eo emend  
 apud I. nuper barganizasset  
 pdictus A. sciens Equum il-  
 lum fore Equum cuiusdam  
 R. S. pp̄r eundem Equum  
 esse Equum ipsius A. pro-  
 prium warrantizando Equu  
 pdictum p magna Pecunie  
 Summa p̄lat' C. falso & frau-  
 dulenter ibidem vendidit & deliberabit  
 p quod pdict R. eundem C. in hundreds  
 Dond Regine de R. in Com pdict de C.  
 quo pdicto cap̄t & injuste detent' secundu  
 Regem

You may observe that the common Form in the beginning, middle and ending of many of these Declarations are abbreviated, and left to discretion to be inserted.

## Of Declarations.

223

Deccit.



*Regem & Consuetudinem huius Regni Anglie & Hundred p'dice implitabit & p'cessū extra eandem Cui debito modo manad ille sibi repleg' pcurabit ad dampnum ipsius C. bigine Libzorum, Et unde (&c. ut in al) Et inde producat Bectam, &c.*

See *Clif. 72, 933. Ash. 35. x Brown. 25. Gen. 27. 102, 224.*

*Note,* That the Sale of Goods by a Man, affirming them to be his own, when he knoweth them to be a Strangers, is an offence and cause of Action, although he doth not shew that the Owner retook them, &c.

*Narr.* That the Defendant upon the Sale of a Gelding, did falsely affirm to the Plaintiff that the Gelding was his own, &c. which was not true, &c. Upon Not-guilty, verdict for that Plaintiff, and motion to arrest Judgment, for that there was no Warranty of Sale; but it was adjudged for the Plaintiff, *Vide Stiles Rep. 310. 44 Aff. Pl. 2 Cro. 474.*

*Narr.* For that the Defendant sold to the Plaintiff divers Goods, *ubi re vera* they were the Goods of a Stranger, and it was not said that the Defendant *sciens* they were the Goods of a Stranger, and therefore adjudged against the Plaintiff, *1 Cro. Mich. 27, 28. Eliz. vid. 2 Cro. 474.*

For where a Man sells Titles or Lands another hath Right to, and Possession of, or a Horse, &c. without Covenant, Warranty or Affirmance, that he hath Right or

Deceit. or Title to sell, no Action 'tis said will  
 lie, 2 Cro. 1, 4, 197. 5 H. 7. 41. 9 H. 7. 21.

See Presidents, *Hern.* 77, 102, 224. *Asp.*  
 35. 1 Bro. 25. *Clif.* 72. *Pl. Gen.* 14, 19.  
*Rob.* 29.

Against a Malster for delivering the  
 Plaintiff, being a Brewer, bad Malt  
 instead of good, &c.

**T** W. queritur de S. B. in custodi-  
 . Marr, &c. p eo videlicet quod  
 cum idem T. (tal die & anno) ac p mag-  
 num tempus tunc ule elapsū fuisset pan-  
 doratoꝝ cervisie lupulac apud T. in dicto  
 Comd Lincol ac bonam & salubrem cervi-  
 siam lupulac de bono & sano Brasio p  
 totum tempus pdice confecisset & diversis  
 ligeis & fidel subdie dice Domine Regind  
 tam in Suburbis Civitac Lincol quam  
 in diversis Villac ppe T. pdictam inha-  
 bitand & familias hentibus p tempus pre-  
 dice vendidisset & utterasset ac eo pter  
 idem T. diversa honesta lucra & pficia  
 per vendicionem & utteraconem humo-  
 salubzis & bone cervisie lupulac p ipsum  
 de bono Brasio confec & pandorac erga  
 victus sui manutenconem lucrac & adepe-  
 fuisset Cumq; etiam pdice S. (pdice tali  
 die & anno) & antea fuisset & adhuc ex-  
 istit cois Brasiatoꝝ (Anglice a Malster) ac  
 Brasium per idem tempus cuicunq; Bra-  
 sium emere volene vendidisset ac etiam  
 cum pdice S. (pdice tali die & anno) ac



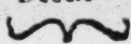


apud C. p'dice in Cond p'dice barganizas  
 et ducene quarteria boni sani & mercan-  
 dizabilis Brassij ad cervisiam lupulac cum  
 eodem Brassio conficendi eidem C. delibe-  
 rand apud quandam Wharfam voc (Ec.)  
 in Com It. ad talia tempora qualia idem  
 C. p'fat S. ad eandem mittere appun-  
 tuaret (eodem C. solvend p'fat S. p' qui-  
 buslibet viginti quarteriis Brassij p'dice  
 Anglice for every score of Malt) sic ut  
 p'sertur barganizae & deliberand vigine  
 & tres libras legalis Monete Anglie (in  
 toto se attingend ad Summam ducenta-  
 rum & trigine Librarum) unde ducene  
 Libe p' ipsum C. solue forent p'fat S. ad  
 manus ante (talem diem) tunc p'or se-  
 quend & in partem p'formacionis barganie  
 que p'dice idem S. deliberabit eidem C.  
 centum & vigine & quinq quarter mer-  
 chandizabilis Brassij videlicet apud Whar-  
 fam (Ec.) p'dict Idem tamen S. mali-  
 ciose machinand & fraudulene intendend  
 ipsum C. callide decipere & defraudare  
 p'fatis barganie p'dict Brassij p'dice p'fatis  
 scilicet primo die 29 Juno (Ec.) supradictis  
 & decimo die Jul. p' se quend apud Whar-  
 fam p'dict deliberabit eidem C. septu-  
 agine & quinq quarter mali & cor. ut Bra-  
 sij al parcella p'dice ducene quarter Bra-  
 sij p'dice ut p'mittitur barganizae idem  
 S. adtunc sciens eodem septuagine &  
 quinq quarter Brassij al parcella eundem  
 ducene quarter Brassij esse insalubre & cor-  
 rupte idem C. minime sciens corruptio-  
 nem eundem septuagine & quinq quar-  
 ter Brassij sic ut p'sertur sibi delibet Bra-  
 sij

Q

Quo

Deceit.



sum corrupe ill in cervisia lupulae postea  
(scilicet tali die & anno) apud C. pdict pandorae  
fuisse & convertebatur cervisia lupulae de eodem malo & corrupe Brasio  
sic pandorae & convers insalubre & corrupe  
devenit cujus ptextu idem C. in  
vendendo & utterando pdictam insalubrem  
cervisiam lupulae de malo Brasio pdict  
sic ut pfertur pandorae & confect diversis  
subdie dice Dñe Regine nunc inhabitant  
tibus in & ppe C. pdice quibus idem C.  
pantea vendere & utterare bonam & sa  
lubrem cervisiam lupulae consuevit & so  
lebat non solum in magnam infamiam  
incidit verumetiam idem C. ea de causa  
pdice cervisiam lupulae de pdicto malo & cor  
rupe Brasio sic ut pdict est p ipsum pan  
dorae ad valenc centum & trigine Librarum  
pdidit & amisit ad dampnum ipsius  
C. ducent Librarum Et inde pduc Se  
ctam, &c.

See *Ass. 36. Clif. 937.*

It is held this Action will lie for a Deceit in Sale of corrupt Victuals, although there be no Warranty in the Case, *Kehew*.

So of all cheating Contracts, as where one sells deceitful Wares, or other things by deceitful Measures, or use any other Deceit with Warranty or without Warranty.

As where one doth sell me good, and deliver me bad, *Dyer 75.*

So where one doth sell me unwholesome Bread, Beer, Wine, Meat, Raisons, Apothecaries Drugs, or any thing that goes into the Body, and may hurt it, knowing

## Of Declarations.

245

Deceit.

It to be so, 19 H. 6. 53. 22 H. 7. 91. 9 H. 7. 21.

See Presidents, *Hansf.* 32. *Thomps.* 25. Cl. Aff. 215.

That sell me Wine mixed with Water;  
Horse not found, knowing it, 20 H. 6. 34.  
3 H. 4. 2. 5 H. 7. 41. 9 H. 7. 21. 9 H. 6.  
3. 7 H. 4. 15. 11 Ed. 4. 6. 42. Aff. Pl. 8.

That doth promise me for my Money  
to deliver me that which is good, and doth  
not.

That sells me bad Cloth, knowing it,  
21 H. 7. 91.

And if there be a Warranty in the Case,  
then is the Action more unquestionable.

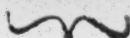
See more in the Preamble to this parti-  
cular of Deceit.

*Note,* It is said, If a Servant have a ge-  
neral Power, and exceed it, as to make a  
Warranty, or the like, this shall not bind  
the Master, 9 H. 6. 32. *Doct. & Stud.* 137.

So if one command his Servant to sell an  
ill Horse, and the Servant sells him for a  
good one, whereby the Servant is arrested  
and endamaged, yet the Servant shall not  
have his Remedy against his Master, 2 Cro.  
471.

But if the Master, as a Goldsmith, make  
Plate, wherein he mingles Dross, so that  
it is not according to the Standard, and sends  
his Servant to a Fair to sell it, who sells it  
for good Plate according to the Standard;  
in this Case it's said the Action will lie a-  
gainst the Master, 2 Cro. 470.





## Nufance.

**T**O this Action of the Cafe alfo belongs that of Nufance, which is, when any Man does a thing upon his own Ground, or elfewhere, to the unlawful Hurt or Annoyance of his Neighbour.

(1.) And it is divided into Common, as when 'tis or may be a Grievance to many.

(2) Special, when only to fome few, the Remedy for which is commonly by Prefentment, &c.

(3.) Particular, as when only to one particular Man.

A Nufance may happen by ftopping or annoying a Man's Water, Way, Light or Air; by building, diverting, ftopping, digging, or the like, &c.

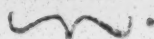
For fuch Nufances as are to a Man's Way, Water-courfe, Conduit, Common of Pafture, or the like, there are in many Cafes more Remedies than one; for in fome Cafes there lies an Affize of Nufance, and in other Cafes a *Quod permittat*, and other Remedies.

Where the Nufance is fpecial to one Man more than another, if he be a Freeholder of the thing to which the Way, Water, &c. (about which the Nufance is) and the whole, or of the greateft part of the Water, &c. in that Cafe it's faid the moft proper Remedy is by Affize, *Quod permittat*, or fome other Writ. But yet

## Of Declarations.

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Nuisance.



herein also he may have this Action of the  
Case, if he will, 10 H. 7. 21. Leon. 247.

Dyer 248, 250.

When the Party to whom the Nuisance is  
done, hath only a Lease for years, or some  
copyhold Estate in the thing, to which  
that to which the Nuisance is, doth belong,  
although the Nuisance be total; or if he  
have the Freehold of the thing to which,  
the Nuisance be only partial: In  
these Cases it's thought the only proper  
Remedy is by this Special Action of the  
Case; and where a Man has the Freehold,  
he may have one or the other Remedy,  
1d. Stiles Rep. 164. Leon. Pl. 333. 1 Cro. 402,  
845. 2 Cro. 673. Godb. 233. Dyer 248,  
320. 5 Co. 73. 101. 9. 113.

or diverting the Plaintiff's Water  
from his Pipe, by affixing to it an-  
other Pipe.

**A.** Queritur de B. p eo videlicet  
quod cum quidam C. nuper fu-  
et leie de Maneria de D. cum ptiid  
fra Paroch de C. in Com pdice unde  
capital Messuag cum ptiid modo in te-  
ra ipsius M. necnon quedam al Domus  
vocat a Conduit-house & quidam fons M.  
vocat a Spring of Water in eadem  
omo tunc & a tempore cujus contra  
memoria hominum antetunc non existe-  
at fuer parcel in Dinto suo ut de feodo

Q 3

cunice



## Nufance.

**T**O this Action of the Cafe alfo belongs that of Nufance, which is, when any Man does a thing upon his own Ground, or elfewhere, to the unlawful Hurt or Annoyance of his Neighbour.

(1.) And it is divided into Common, as when 'tis or may be a Grievance to many.

(2.) Special, when only to fome few, the Remedy for which is commonly by Prefentment, &c.

(3.) Particular, as when only to one particular Man.

A Nufance may happen by ftopping or annoying a Man's Water, Way, Light or Air; by building, diverting, ftopping, digging, or the like, &c.

For fuch Nufances as are to a Man's Way, Water-courfe, Conduit, Common of Paffure, or the like, there are in many Cafes more Remedies than one; for in fome Cafes there lies an Affize of Nufance, and in other Cafes a *Quod permittat*, and other Remedies.

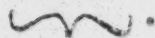
Where the Nufance is fpecial to one Man more than another, if he be a Freeholder of the thing to which the Way, Water, &c. (about which the Nufance is) and the whole, or of the greateft part of the Water, &c. in that Cafe it's faid the moft proper Remedy is by Affize, *Quod permittat*, or fome other Writ. But yet



## Of Declarations.

247

Nusance.



therein also he may have this Action of the

Cafe, if he will, 10 H. 7. 21. Leon. 247.

Dyer 248, 250.  
When the Party to whom the Nusance is done, hath only a Lease for years, or some Copyhold Estate in the thing, to which that to which the Nusance is, doth belong, although the Nusance be total; or if he have the Freehold of the thing to which, the Nusance be only partial: In these Cases it's thought the only proper Remedy is by this Special Action of the Cafe; and where a Man has the Freehold, he may have one or the other Remedy, *Stiles Rep.* 164. *Leon. Pl.* 333. *1 Cro.* 402, 67, 845. *2 Cro.* 673. *Godb.* 233. *Dyer* 248, 320. *5 Co.* 73. 101. 9. 113.

or diverting the Plaintiff's Water from his Pipe, by affixing to it another Pipe.

**A.** Queritur de B. p eo videlicet quod cum quidam C. nuper fuisset leic de Manerio de D. cum ptiū fra Paroch de E. in Com pdice unde capital Messuag cum ptiū modo in terra ipsius B. necnon quedam al Domus vocat a Conduit-house & quidam Fons vocat a Spring of Water in eadem loco tunc & a tempore cujus contractum memoria hominum antetunc non existit fuisse parcel in Dinto suo ut de feodo

Q 3

cum

## Of Declarations.

cumq; etiam idem C. nup fuisset pos-  
 sessionae de quadam Canale Plumbi (An-  
 glice a Pipe of Lead) jacenti existendi & ex-  
 tendendi in diversis parcel Terrarum Ma-  
 nerij predictae ut de Bonis & Catallis  
 suis ppe p quam quidem Canalem Plum-  
 bi quidam Aque cursus a predictae fonte  
 in predictae Domum (vocat a Conduit-  
 house) existendi emanans usq; ad predictae  
 Capital Messuagium p necessitat ulu ejus-  
 dem Messuagij & ab eodem Messuagio  
 usq; in quoddam Stagnum ibidem (vo-  
 cat the Moat) parcel Messuagij illi ex-  
 istendi decurrebat & a toto tempore supra-  
 dicto decurrere consuevit Et sic inde scit  
 & possessionae existendi [C. demised the  
 Conduit-house, the Conduit-head, the Wa-  
 ter-course and Pipe of Lead cum ptiis for  
 years to F. who assigned his Lease to the  
 Plaintiff] virtute cujus quidem dimis-  
 sionis & assignationis idem A. in predictae  
 Messuagium & cetera Premissa in forma  
 predictae dimissis cum ptiis intravit & fuit  
 adhuc est inde possessus Et sic inde possessus  
 existendi predictae B. malitiose machinatus ip-  
 sum A. de usu & commoditate Aque suae  
 predictae totaliter deprivare postea scilicet (talibus  
 anno & loco) quandam Canal Plumbi  
 (Anglice a Pipe of Lead) ad quandam  
 peciam Plumbi predictae Canalis ipsius A.  
 affixam de novo affixit erexit & diver-  
 p quam predictus Aque cursus a fonte  
 predicto p predictae Canalem Plumbi (Anglice  
 the Pipe of Lead) ipsius A. usq; Messua-  
 gium predictae ut pferitur decurrere consu-  
 et

antiquo cursu quo p̄dict' penitus di-  
 versus existit idemque *N.* rāone inde de  
 aqua sua p̄dict' impeditus & deprivat ex-  
 it unde idem *N.* dic' quod deteriorae est  
 dampnum h̄et ad valenc' 100 l. Et inde  
 duc' Sextam, &c.

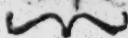
If a Man have a Water that time out of  
 mind hath come above or under ground  
 to his House or Ground, be it in or out  
 of a Conduit or Pipe, and the same is stop'd,  
 diverted or corrupted in part or in whole,  
 he may have this Action against him that  
 stoppeth it, 5 Co. 73. 1 Cro. 359. F. N. B.  
 84.

And yet if such a Water be common to  
 every body, or to every body in that Pa-  
 rish, and such a Nufance be, not this Acti-  
 on, but some other Remedy must be had,  
 as before observed.

But yet if any special Damage happen  
 to a Man thereby, as if one should poison  
 such Water, and another brings his Cattel  
 thereto to water, and they die, this Action  
 shall thought will lie for the loss, 22 H. 6. 46.  
 2 Cro. 263. 5 Co. 103. 9. 113.

See Presidents, 3 Brownl. 71. Ash. 44.  
 Clerks Man. 120. Clerks Ass. 267, 274. Rob.  
 66. Tho. 26.





## Of Declarations.

For diverting Water from the Plaintiff's Mill

**N.** **A.** B. queritur de C. D. p eo vi-  
 scire de uno Molendino Aquatico cum  
 ptiū in E. in Com pdiā in dīcō suo ut  
 de feodo idemq; A. & omnes Antecessores  
 sui ac omnes illi quorum statum idem A.  
 modo het in Molendino pdiē cum ptiū  
 huer & a tempore cuius (Et.) non existit  
 here consuever quendam Aque cursum  
 currend a quodam loca vocae f. in Com  
 pdiā usq; quendam locum vocae in G. in  
 H. in Com pdiē ac ab p & trans eundem  
 locum voc G. in H. pzed in Com pzed usq;  
 Molendinū pzed Et sic inde scire existēd  
 pzed C. pmissorū non ignar sed malitiose  
 machinā & intendē ipsum A. de p-  
 cuo & commoditatē Molendini sui pzed de-  
 pzbare (tali die & anno) apud (et.) Si-  
 pām Aque cursus pdiā scidit fregit & di-  
 rupit & cursum Aque ad Molendinū pzed  
 a tempore supradicto ut pferitur currere  
 consuee ab antiquo cursu suo distat ita  
 quod ubi antetunc Molendinū illi quibussu-  
 bet 24 horis 12 quarter Critici Molare  
 valebat & consuevit p huiusmodi distat  
 Aque cursus pzed infra spatium 24 horarū  
 non plus quam sex quarter Critici mo-  
 iare valet & potest p quod idem A pscud  
 Molendini sui pzed p magnum tempus  
 pidiēt p spatium sex mensium ut pferitur  
 perdidit

perdidit & amisit unde idem A. dicit qd ipse deteriorat est & dampnum het ad valenc 40 l. &c.

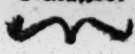
If I have a Mill, and a Water running to it time out of mind, and another turn the Water by digging a Trench or otherwise, that I cannot grind as formerly I did, I may have remedy by this Action, 2 Cro. 263. Stiles Rep. 370. 4 Co. 86. Dyer 195, 248. 12 H. 4. 47. 21 H. 7. 30.

See Presidents, 2 Brownl. 62. 3 Brownl. 45. Hern. 82, 126. Clerk's Ass. 209. Hansf. 32.

For turning a Water-course upon the Plaintiff's House, and so spoiling his Goods and rotting the Foundation of his House.

**N** S. queritur de B. C. in Custod Mare, &c. p eo videlicet quod cum pdice P. primo die Novembris Anno Regni Dne Anne nunc Regine Anglie, &c. primo & antea possessionat fuisset de uno antiquo Messuagio cum ptin scituat, (&c.) p residuo termini diversor annoz adtunc & adhuc ventur Quod quidem Messuagium est pr' adjacens cuidam antiquo cursui aque current a quodam loco vocat (&c.) ad quendam Ribulum vocat (&c.) Cumq; etiam pdice P. in Messuagio pdicto die & anno supradictis & diu ante lictime exercuisset Artem & Applie- rium liquefaciendi Sebum (Anglice of melting Tallow) p quod diversa lura & p'ua

Nufance.


 pficua huius & lucrificet & diversas magnas quantitates Sevi in Messuagio p. dice salvo deponere & custodire solebat dieq; & anno supradictis ibidem deposuit p. dice tamen G. machinans & fraudulenter intendens ipsum P. in hac parte minus rite pgravare ipsumq; P. de usu proficuo & commoditate Messuagij p. dice totaliter deprivare Artemq; & Mysterium p. dice ab exercendo impedire die & anno supradictis diversisq; diebus & vicibus p. antea apud (Ec.) in Com p. dice magnas quantitates feditatis (Anglice Guts and Garbage) ac ruderis in aque cursum p. dictum p. jecit ac aque cursum p. dice cum feditatibus ac rudere p. dictis totaliter obstupavit p. quod aqua que antea tunc libere de loco p. dice vocat (Ec.) p. Messuagium p. in Ribulum p. vocat (Ec.) decurrere solebat ratione obstupationis p. dice versus Messuagium p. dice irruerat ac in idem Messuagium irrupit & inundavit & sex mille pondus (Anglice Six thousand pound weight) Sevi ad valentiam ducentarum librarum totaliter spoliavit & fundamentum Messuagij p. dicti corrupit (Anglice rotted) & diruit (Anglice threw down) unde idem E. dicit quod ipse deteriorat est & dampnum het ad valentiam (Ec.) Et inde pduc Sectam, &c.

See *Hern.* 180, 208, 236. *Ash.* 43, 47, 49. *Rob.* 42, 66. *I Brown.* 57.

If one have a House and Ground adjoining to a little River, and another throw in Stones or Rubbish, and stop the Water that



it doth overflow and hurt my House or Land, I may have this Action against him, 1 Cro. 191.

So if one levy a Damm upon the River, whereby the Water overflows my Ground, 1 Cro. 402.

So if one cut down the Bank of a River, whereby my Meadow is drowned, 1 Cro. 747. Het. 118.

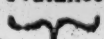
This Action will also lie for stopping of a Ditch or Water-course, by which my Land is drowned; so for not scowring a Ditch, Reg. Orig. 95, 101. Godb. Pl. 68.

So if one do by any means stop or damm up the River higher than formerly, so that my Ground is dried by it, Godb. Pl. 70. Dyer 248. Quare exaltabit Stagnum, or quod erexit Stagnum, &c. Jenkyn Cent. 6. Case 65.

Against a Miller for raising and stopping the Water running to his Mill, by which the Plaintiff's Closes were drowned, &c.

ff. **A**. B. nuper de (Ac.) Attach fuit ad respondens C. D. de plico quar cum idem C. p quatuor annos jam elaps possessionae fuit & adhuc possessionae existit de duobus Clis Terre jacent & existend in C. pd ac pdice A. p idem tempus possessionae fuit & adhuc posses existit de quodam Molendino Aquatica Granatico in C. pdice Cumq etiam quodam Stagnum (Anglice a Mill-damm) sive

Nufance.

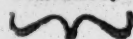


sive Aquæ Cursus modo currit & a tem-  
 pore cuius contrae memoria hominum  
 non existit decurrere solebat ppe p̄dice  
 duo Clausa ipsius C. usque ad Molendi-  
 num p̄dice A. & sic a Molendino p̄dice A.  
 in quendam Ribulum vocat (Ec.) p̄dice  
 A. machinam & intendem ipsum C. de p-  
 ficio p̄dice duorum Clausorum penitus  
 deprivare primo die Nobembris Anno  
 (Ec.) apud C. p̄dict aquam Stagni p̄dice  
 cum quibusdam exclusis & aliis ingeniis  
 in tant obstruxit & exaltabit quod aqua  
 Stagni p̄dict ratione obstructionis & exal-  
 tationis illæ a debite cursu suo impedit ul-  
 tra ripas Stagni p̄dict decurren' p̄dict  
 duo Clausa ipsius C. eidem Stagno ad-  
 jacent inundavit & submersit p quod idem  
 C. p̄ficium p̄dict duorum Clausorum p ma-  
 gnum tempus amisit ad dampnum ipsius  
 C. trigint Librarum, &c.

See Clerk's Man. 178. Reads. Dec. 99.  
 Bro. Red. 40. 67. Thomp. 42. Rob. 44. Vidian.  
 64. Hern. 133. Co. En. 18. Ash. 46.

For stopping up a Way belonging to, and  
 leading from the Plaintiff's Messuage  
 to a parcel of his Land.

¶ **A** B. queritur de C. D. in Custos  
 Mare, &c. pro eo videlicet quod  
 cum p̄dict A. (tali die & anno) & diu  
 ante seir' fuisset & adhuc seir' existit in do-  
 minico suo ut de feodo de & in una par-  
 cella terre vocat (Ec.) jacent & existent in  
 17.



**P.** in Com<sup>o</sup> p<sup>r</sup>o idem<sup>q</sup> **A.** & omnes illi quo-  
rum statum p<sup>r</sup>o dicit **A.** modo habet & a tem-  
pore cujus contrari memoriam hominum non  
existit habere consuevit quandam viam  
inter duas parcelas terre vocat **E** & **P.**  
a quodam Messagio jacent in **H.** p<sup>r</sup>o dicit  
in quo idem **A.** modo inhabitat usque ad p<sup>r</sup>o  
parcelam terre vocat (et.) omnibus temporibus  
anni p<sup>r</sup>o omnibus **A.** veriis suis ad fugandum  
& refugandum ad libertatem eorum p<sup>r</sup>o dicit ta-  
men **E.** p<sup>r</sup>o missorum non ignarus sed ma-  
chinans & intendens p<sup>r</sup>o **A.** de via p<sup>r</sup>o terre  
impedire p<sup>r</sup>o die (et.) anno supradicto apud  
**H.** p<sup>r</sup>o dicit quoddam fossatum (vocat a  
Ditch) longitudinis sex pedum & latitu-  
dinis quinque pedum ex transverso vi-  
am p<sup>r</sup>o dicit effodit & composuit & quan-  
dam Sepem (vocat a Hedge) ex trans-  
verso viam illam de novo fecit & erexit  
ac viam illam cum fossat & Sepe p<sup>r</sup>o  
dicit penitus obstruavit p<sup>r</sup>o quod idem **A.**  
a Messagio suo p<sup>r</sup>o usque ad p<sup>r</sup>o parcelam  
terre vocat (et.) ad eandem occupandam  
putaret & debet transire seu p<sup>r</sup>o parcelam  
terre vocat (et.) a tempore obstruacionis  
p<sup>r</sup>o quiete occupare non potuit unde dicit  
quod deterior est & damnum habet ad valen-  
tiam trigine Librarum. Et inde p<sup>r</sup>o ducit Sec<sup>o</sup>, &c.

If I have had, time out of mind, a pri-  
vate way to my House, Ground, Common,  
or other place, by Custom, Prescription,  
Feoffment or otherwise; and another Man  
stop or hinder it in all or in part, I may  
have this Action.

How



Nufance.

How a Prescription may be made for a Way. See *Stiles Rep.* 300, 301, 371.

*Note,* That for Common and Publick Nufances done in publick Ways, as by casting of Garbage, Dung, Intrails of Beasts, or the like filth, by digging of Pits within it, by turning of Water in it, and by not repairing of them, &c. and for such things done therein, or in the common Rivers, in or near any City, Borough or Town, the proper place for redressing the same, is the Law Day-Court, or in the Sessions by Presentment or Indictment, &c. — And yet if by occasion of such publick Nufance any one Man happen to have any special Damage above another Man; as if by digging a Pit, or laying a Block in the Highway, he or his Horse is hurt, he may have this Action for it, 2 *Cro.* 446. 1 *Cro.* 604. *Stiles Rep.* 335. 1 *Bulst.* 47. *Poph.* 166, 167, 168, 5 *Co.* 103. 9 *Co.* 113.

See Presidents, *Rast.* 616. *Hen.* 73. 102, 142, 207. *Co. Ent.* 11. 1 *Brownl.* 189, 197, 200, 247. 2 *Brown.* 9. *Bro. Red.* 14, 17, 43. *Vidian.* 42, 65. *Clerk's Man.* 123. *Cl. Aff.* 214, 266, 2 *Ventr.* 185.

For inclosing and eating the Common.

¶ **E**t unde idem A. per J. P. A. totum suum queritur quare cum idem A. (tali die & anno) & semper postea hucusque fuisset & adhuc existit scilicet de

# Of Declarations.

247

Nulance.

Manerio de D. cum p̄tind in Cond p̄dice  
in dinko suo ut de feodo idemq; A. & oēs  
quorum statum idem A. het in Ma-  
nerio p̄dice cum p̄tind huer & a tempore  
cujus contē memoria hominum non exi-  
sit here usi fiter & consueber p se firmar  
& tenentib⁹ suis ejusdem Manerij cum p-  
tind Coīam Pasture in quadam pecia pa-  
stur vocat L. continēd p estimatōn sex  
mille Ace Pastur pro oībus & omīod a-  
berijs in & super Manerium p̄dice cum  
p̄tind lebān quolibet anno omni tempore  
anni ad libitum suum tanquam ad Ma-  
nerium p̄dice cum p̄tind spectat & p̄ti-  
nēd p̄dice tamen C. p̄miss non ignat set  
machinans & maliciose intendens ipsum  
A. de Coīa Pastur sua p̄dice in p̄dice pe-  
cia Pastur vocat L. in forma p̄dice hend  
minus jusse impedire & de pficuo suo in-  
de deprivare ( tali die & anno ) ducene  
Ace Pastur p̄dice cum Sepibus & Follae  
inclusit & inclus tenuit ita quod Aberia  
ipsum A. ad Coīa sua in eisdem utend  
intrare non potuer ac etiam p̄dice C.  
adunc posuit in p̄dice pec Pastur vo-  
cat L. decem Equos viginti Equas tri-  
ginti Spadon quadraginta Vaccas quin-  
quagine Juvencas ducene Bident ac her-  
bam ibidem cresced cum Equis Spadon  
Vaccis Juvencis & Bidentibus p̄dict  
depast fuit conculeavit & consumpsit &  
depast conculationem & consumption  
herbe p̄dice cum aberijs p̄dice in p̄-  
dice pecia Pastur vocat L. diversis dieb⁹  
& vicibus inter p̄dice ( such a day and  
such a day ) tunc p̄ox⁹ sequed continu-  
ans

Allegation  
of the In-  
closure of  
the Com-  
mon, &c.

Surcharge.

**N**ufance. and Pastur predict cum aberiis predict in tantum suponerabit ita quod idem A. p totum idem tempus Coiam Pastur p in p d pecia Pastur vgeat A. pro Equis Bobus Vaccis Bidentibus & Aberiis suis super Manerium p d i c t cum p t i d p totum id tempus leban & cuban in tam ampli & beneficiati modo put ipse pantea hui & here consuebit uti & here non p t u i t ac maximam partem pficui sui inde cum Aberiis predict p totum idem tempus amisit ad dampnum ipsius A. 50 l. Et inde produc Sextam, &c.

If I have Common in anothers Ground, and he doth inclose it, or make a Fish-Pool in it that I cannot have my Common, this Action will lie, *Hetley's Rep* 143.

And generally in all Cases where I have an Ancient Common of Pasture by Custom or Prescription, and any one shall by Inclosure, Surcharge, Trespas of his Cattel, or the like means eat up or spoil the Grass so much that there is not sufficient left for the feeding of my Cattel as formerly, and I cannot have the profit of it as I have had, I may have this Action. — But if the Trespas be so small that I have, notwithstanding, Feeding sufficient for my Cattel, no Action will then lie, 1 *Inst.* 56. 1 *Cr.* 355. 4 *Co.* 39. 8. 79.

So if I have Estovers in the Wood of another by Prescription, and the Owner of the Wood cut it down, and doth not leave sufficient for me, I may have this Action, 9 *Co.* 112.



If one Commoner surcharge the Common, that the rest cannot have theirs as they have been used to have it; some hold the rest of the Commoners may have this Action, against him, *Vide Noy's Rep.* 30. *Stiles Rep.* 164.

If one dig Pits, or make Trenches where my Common is, that my Cattle go in danger of their Lives, thereby I may have this Action, *Noy's Rep.* 84. *Vide Godb. Pl.* 437, 442. 2 *Brownl.* 55.

See Presidents, *Co. Entr.* 9, 14. 3 *Brownl.* 60, 66, 96. *Ash.* 60. *Hern* 64, 65, 91, 116, 117, 123, 125, 164, 27. 1 *Brownl.* 249. *Winch* 42, 49, 71, 76, 91, 82. 1 *Browne* 47. *Thomp.* 33, 40. *Rob.* 12. *Bro. Red.* 44, 65, 73. 2 *Ventr.* 135. 2 *Mod. Intr.* 88, 250.

For building near, and stopping up the Plaintiff's ancient Lights, and hindring him to enjoy the wholesome Air, &c.

ff. **A.** B. queritur de C. D. in custod  
Mari &c. p eo videlt quod cum  
idem A. primo die Decembris anno (Ec.)  
& semp postea hucusq possessionae fuit &  
adhuc possessionae existit de & in uno an-  
tiguo Messuagio cum pertinentiis scilicet  
jacent & existend in Paroch Sancti Egidij  
in Campis in Com Midd in quo quidem  
Messuagio eodem primo die Decembris  
anno supradicto a tempore cujus contra  
memoria hominum non existit fuerunt  
R. quatuor

Nufance.

quatuor antiquae fenestre in parte Bozeali  
 messuagij pdicti p quas quidem quatuor  
 fenestras aer saluberrimus & lumen ex-  
 hilarans eodem primo die Decembris  
 anno supradicto ac a toto tempore supra-  
 dicto intrabant & inferrebantur & intrare  
 & inferri consuever & solebant in magnū  
 emolumentum & commoditatē inhabitanti-  
 um messuagij pdicti Cumq; pdict' C.  
 pdicto primo die Decembris anno supra-  
 dicto & tempore postea hucusq; possessionat  
 fuit & adhuc possessionat existit de qua-  
 dam parcella terre cum pertinentiis scituat  
 jacend & existend in Parochia & Comd pre-  
 dict' eidem messuagio ppe & contigue ad-  
 jacend & sic inde possessionat existens idem  
 C. machinans & fraudulens intendens  
 eundem A. multipliciter pgravare & ipsum  
 A. de aere & lumine que in messuagio  
 pdict' p fenestras pdict' inferri & intrare  
 consueverunt & solebant & messuagium  
 pdict' horridis tenebris obstupare pdicto  
 primo die Decembris anno supradicto a-  
 pud Paroch pdict' in Comd pdict' quoddam  
 nobum messuagium sup pdictam parcel-  
 lam terre ipsius C. tam ppe pdict' anti-  
 quum messuagium pdict' A. de novo erexit  
 & edificabit ita quod p eandem erectionem  
 pdict' nobi messuagij ipsius C. fenestre  
 pdict' die & anno supradicto & tempore postea  
 usq; (talem diem) anno (sc.) multipli-  
 cie obscurae & obstupae fuerunt p quod  
 idem A. tot commoditatem & easiamen-  
 tum pdict' fenestrarum & iuvamen & sa-  
 lubritatem aeris & luminis in & p eas-  
 dem fenestras ut pfertur intrare & in-  
 ferri

ferri conſuee a p̄dicto primo die Decem-  
bris anno (ſc.) ſupradicto uſq; p̄dictum  
(ſalem diem) anno (ſc.) ſupradicto tota-  
lit̄ p̄didit & amiſit Cumq; etiam p̄dicta  
A. poſtea ſciſt (tali die & anno) ſupra-  
dicto & continue poſtea huiusq; poſſeſſio-  
nae fuit & adhuc poſſeſſionae exiſtit de &  
in antiquo Meſſuagio p̄dicto cum p̄tinen-  
tiis in quo antiq; fenestre p̄dictae ut p̄ſer-  
tur fuerunt Cumq; p̄dictus C. p̄dicto  
primo die Decembriſ anno (ſc.) ſupra-  
dicto apud Paroch p̄reſ in Com̄ p̄re� no-  
uum Meſſuagiū ſup p̄dictam parcellam  
terre ipſius C. tam p̄pe Meſſuagiū p̄re�  
A. p̄re� de nobis ut p̄ſertur erexiſſet & edi-  
ficaiſſet ita quod p̄ eandem erectionem p̄re�  
nobis Meſſuagij ipſius C. fenestre p̄re�  
adunc & ibidem multipliciter obſcurae  
& obſupae fuiſſent idemq; C. machinans  
& malitioſe intendens iplum A. ulterius  
parabare p̄dictū nobis Meſſuagiū ſic ut  
p̄ſertur erectū & edificatū a p̄dicto die  
(ſc.) anno (ſc.) ſupradicto uſq; diem ex-  
hibitiōis huius Wille continuabit p̄ quod  
idem A. commoditae & eaſiamenē fene-  
ſtrar̄ Meſſi ipſius A. p̄re� p̄ totum tem-  
pus p̄re� totaliter p̄didit & amiſit unde  
idem A. dicit quod ipſe deteriorae eſt &  
dampnū habet ad valenē (ſc.) Et inde  
p̄duc̄ Sextam, ſc.

If a Man ſet up a Houſe upon a new  
Foundation, ſo near to my Houſe that  
thereby he ſtop up my Window, and take  
away my Light and Proſpect, I may have  
this Action—— But if his Building be up-



Nuisance.

on an old Foundation, and where there was a House before, no Action will lie for this: *Cujus est solum ejus est usque ad cælum*, New Book of Entries, fo. 19, 20. 9 Co. 55. 5. 10.

See Presidents, 1 Brown 44 Vid. 11, 1; Clerks Man. 150.

For overbuilding the Plaintiff's House, so that he could not raise it, and stopping up his Lights, &c.

Londond N. **A.** B. nuper de London Gen attach fuit ad respondentem C. D. de placito quare cum idem C. die (Et.) anno (Et.) & continue abinde usque diem impetrationis hujus Originalis preter C. possessionat fuit & adhuc possessionat existit de uno Messuagio situate jacent & existens in London videlicet in Parochia (Et.) & Warda (Et.) p termino diversorum annorum adhuc venturum Cumque Austral & Occidental partes (Anglice the South and West parts) ejusdem Messuagij tam submisse structa (Anglice low built) p totum tempus predictum extiterunt & adhuc existunt quod necessarii usibus dicti C. sufficienter inferre vire non potuerunt nec possunt ratione cuius idem C. dictas Austral & Occidental partes Messuagij preter predicto die (Et.) anno (Et.) supradicto & continue abinde usque diem impetrationis hujus Originalis predicti reparare & exaltare intendebat (Anglice to repair and build higher) p melioribus

ribus usu comodo & occupacione suis  
inde picipiend Cumq etiam p̄dict' A. p  
totum tempus p̄ced' possessionae fuit &  
adhuc possessionae existit p termino dis-  
solū annoꝝ adhuc ventur de & in uno alio  
Messuagio jacent & existend in Parochia  
& Warda p̄dictis p̄r' & contigue adjacend  
dicto Messuagio p̄dicti C. ex Occidentali  
parte inde p̄dict' A. sic inde possessionae  
existend nequiter & malitiose intendens  
p̄dict' C. de reparacione & exaltacione  
p̄dict' Austral & Occidental partiu p̄ced  
Messuagij ejuldem C. impedire (tali  
die & anno) apud (Ec.) p̄ced in Parochia  
& Warda p̄ced de novo edificabit p̄dict'  
Messuagium p̄ced A. & in eadem edifica-  
tione sua nova quoddam edificium sive  
structuram continend in longitudine unam  
virgatam & duos pollices & in latitudine  
quinq pedes extra p̄dictū Messuagiū  
directū sup dictas Australes & Occiden-  
tales partes p̄ced Messuagij p̄dict' C. ex-  
edificabit & introchiamene (Anglice hath  
builded and jetted over) racione quorū  
quidem exedificacionis & introchiamene  
p̄dict' idem C. Austral & Occidental par-  
tes Messuagij sui p̄ced reparare & exal-  
tare non potest set totum pficiū & com-  
modum que ipse p reparacionē & exaltato-  
nem eorundem p̄cipere potuit a tempore  
exedificacionis & introchiamenti p̄ced huc-  
usq amissit Et etiam disfla lumina p̄ced  
Messuagij dict' C. jacent ex Occidentali  
parte ejuldem Messuagij dict' C. p in-  
trochiamene p̄dict' totaliter obstupae ex-  
stunt (Anglice stopped up) ad dampnū

Nufance. *ipſius C. centū Librarū Et inde pduc*  
*Sextam, &c.*

See Prefidents, *Hern* 98, 140, 197. *Ca. Entr.* 200. 1 *Brownl.* 230. *Rob.* 7, 8, 56. *Winch.* 46. *Vid.* 6, 28. *Bro. Red.* 34. *Thomp.* 26. *Cl. Man.* 188. 2 *Mod. Intr.* 87.

If a Man do over-build my Houſe, ſo that his Houſe-eves do drop upon my Houſe, and cauſe it to periſh, or trouble my dwelling, I may have this Action, 22 *H. 6.* 14.

The erecting of a Dye-houſe, Pig-ſty, Houſe of Office, Brewhouſe or Chimney, may be a Nufance to the Neighbourhood, for which he that is hurt may have his Action; but in ſuch Caſes the thing erected muſt be uſed, 5 *Co.* 73, 101, 108. 9 *Co.* 54.

If I have a Building beneath, and another Man hath a Building above me, and I ſuffer mine to decay, ſo as to hazard his, or he ſuffer his to decay, ſo as to hazard mine, in this Caſe each of us may have this Action againſt the other, *Old Book of Entries*, fol. 3. *Kelw.* 48.

If one ſet up a Pig-ſty under my Houſe, and keep Pigs in it; or a Houſe of Office, Lime-Kiln or Brewhouſe, and uſe it ſo near my Houſe, that the ſmell thereof doth annoy me, and hazard my Health; or the Smoke of the Brewhouſe or Lime-Kiln deſtroy or hurt my Trees; In theſe Caſes, and for theſe Wrongs I may have this Remedy, 5 *Co.* 73. 101.

The Building of a Brewhouſe, or the keeping of a Chandler's or a Butcher's Shop  
 by



by my Neighbour, in a place inconvenient, to the Offence of my Garden or House, may be a Nuisance, for which I may have this Action: But if such a Man do set up his Trade by me, though this be an Offence to me, it's said I cannot have this Action, unless it be very great and much offensive, 1 Cro. 367. 13 H. 7. 26.

Statute d<sup>e</sup>  
Hue & Cry.

And if a Man have a House very near mine, and he suffer it to decay, and fall, and throw down some of mine, it's said I may have this Action against him, Co Littl. fol. 56.

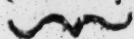
See Presidents, Rob. 18. 9 Co. 57. 1 Bro. 57. Vid. 11, 65. Thomps. 38. 2 Sauud. 397. Co. Entr. 19. Rast. 10, 442. Ash. 41, 47, 16. Hern. 204.

*Actions upon Statutes.*

13 Ed. 1. de Roberia & de 27 Eliz. de Hutes' & Clam'.

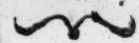
Verb. ff. **H**omines inhabitantes in Hundredo de Alto Pecco attach fuerunt ad respondendū tam Dñe Regine quam C. S. de plito quare cum in Statuto in Parlamento Dñi Ed<sup>o</sup> nup Regis Anglie p<sup>ri</sup>mi apud Winton anno Regni sui decimo tero tene edic inē alia ordinat sit p eo quod de die in diem roberia homicidia & incendia plus solita tunc fiebant quam antea solebant & Fe- lones non potuissent esse attincti p Sa-  
R 4 crum

Statute de  
Hue & Cry.



erum Iur qui magis voluntarie pmit-  
tebant Felonias fieri gentibus extraneis  
& Felones evadere absque pena quam ma-  
lefactores indictari unde magna pars fue-  
runt Gentes de eadem patria vel ad mi-  
nus si malefactores fuerunt de alia pa-  
tria eorum receptores fuerunt de villa  
ubi huiusmodi malefacta fiebant & hoc sa-  
ciebant pro eo quod Sacra eisdem Iuri non  
ministrabantur nec in patria ubi Felonie  
illi fiebant Et quoad restitutionem damp-  
norum pena antea non fuit propter con-  
celamento & negligentia suis idem nuper  
Rex ad debilitand posse Felonia stabilire  
penam in illo casu ita quod primo pene  
plus quam pavor Sacri nullis extime-  
re parcerent nec aliquas Felonias concele-  
rent & mandabit quod proclamatio solem-  
niter fieret in omnibus Com Hundred  
mercatis feriis & omnibus aliis locis ubi  
solemnis assembleatio gentium foret sic quod  
nulli per ignorantiam se possint excusare  
quod quilibet patria extime sic possit cu-  
stodiri quod immediate post Roborias  
Felonias factas recens insecutio fieret de  
Villa in Villam & de Patria in Patriam  
ac etiam inquisitiones fierent si necesse foret  
in Villa per ipsum qui superior esset de  
Villa & postea in Hundred in Franchises  
in Com & aliquando in duobus tribus vel  
quatuor Com in casu quando Felonie  
facte fuerunt in Marches Com ita quod  
malefactores potuissent esse attinati & in  
Patria de huiusmodi malefactoribus non  
responderet pena talis esset quod quilibet

Patria



Patria scilicet homines in Patria commo-  
rantes responderent de Roberiis factis &  
de dampnis factis sic quod totus Hundzed  
ubi Roberia illa facta foret cum Franches  
que essent infra p̄inct ejusdem Hundzed  
responderent de Roberiis factis & si Ro-  
beria illa facta foret in divisis duorum  
Hundzedorum responderent inde ambo  
Hundzed simulcum Franches que forent  
infra p̄inct Hundzedoꝝ p̄dictice & longi-  
orem terminum non heret Patria post  
Roberias & Felonias factas quam qua-  
draginta dies infra quos faceret emendas  
de Roberiis & malefactis vel responde-  
rent de corporibus malefactorum prout in  
Statuto p̄dictice plenius continetur. Ac  
cum quidam malefactores p̄fate C. incog-  
nit in alta via Regia apud Paroch de  
Wymhill prope quendam locum ibi vo-  
cat Peak Forrest que quidem Paroch de  
W. est & fuit infra p̄dictum Hundzed de A.  
p̄dictum vi & armis in ipsum C. insulte-  
runt & sexaginta & tres Libras & sex  
Denar in pecuniis numeratis de Denar  
ipsius C. propter ibidem inveniē felonice de  
eodem C. spoliaverunt ceperunt & aspor-  
taberunt contra pacem Dñe Regine nunc  
idemq; C. immediate post feloniam &  
spoliacionem p̄dictam factam apud W. p̄dictum  
infra p̄dictum Hundzed de A. Buteshum &  
Clam de Roberia p̄dictam fecit & adtunc no-  
ticiam Inhabitantibus ejusdem Ville de  
W. de Roberia illa dedit & post Roberiam  
illam factam & infra viginti dies ante  
diem impetraconis h̄is originalis ipsius  
C. idem C. coram S. D. Wil tunc uno  
Justic



Statute de  
Hue & Cry

**I**ustit' die Dñe Regine ad pacem in  
Com' Verb' conserband' assign' Inhabi-  
tam infra dict' Hundred' de A. examinat'  
fuit super Sacramentum suum corporale  
utrum idem C. cognovisset partes que  
Roberiam illam fecissent seu eorū aliquam  
juxta formam Statuti apud Westm' An-  
no Regni Dñe Elizabethe nuper Regine  
Anglie vicesimo septimo inde edit' & pre-  
vis' idemq; C. super Sacram' suum predict'  
tunc dixit quod ipse non cognovit partes  
que Roberiam illam fecissent nec eorū  
aliquam & post Roberiam illā quadragin-  
ta dies jam pterierunt iidē tamen homi-  
nes inhabitantes in Hundredo predict'  
emendas de Roberia predict' p'sat' C. non  
fecerunt nec de corpora felonū & Malefac-  
torū predict' nec corpus eorū alicujus  
ceperunt nec de corporibus eorū aut de cor-  
pore eorū alicujus hucusq; responderunt  
sed Malefactores & Felones illi evadere  
permiserunt in dict' Dñe Regine nunc  
contemptū & ipsius C. grave dampnum  
& contra formā Statut' p'd. &c. Et unde  
idem C. S. qui tam, &c. per H. P. Attorū  
suum queritur quod cum quidam male-  
factores, viz. tres hoies p'sat' C. ignot' in  
via Dñe Regine nunc Anglie, &c. decimo  
die Octob' Anno Regni dict' Dom' Regine  
nunc p'imo in alta via Regia infra pre-  
dict' Hundred' de A. viz. apud Paroch' de  
W. ppe quendam locum ibidem vocat' P.  
f. vi & armis, viz. Baculis Gladiis &  
Cultellis in ipsū C. insult' fecer' (&c. ut ante  
usque) in dict' Dñe Regine nunc contempt'  
& ipsius C. grave dampnum & contra for-  
mam

Statuti predicti de Anno Regni p<sup>re</sup>- Statute de  
 t nuper Regis Ed<sup>rd</sup> primi tertio deci. Hue & Cry.  
 o supradicto edit unde dic quod deteri-  
 at est & dampnum her ad valenc 100 l.  
 t inde produc Sextam, &c.

See Presidents, *Rast.* 406. *Co. Ent.* 348.  
*10. &c. Hern.* 214. 216. *Hern.* 3. *Vidian.*  
*10.* 212. *Bro. Red.* 210. 455, 456. 1 *Brown.*  
*9.* 110, 111. 2 *Bro.* 178. *Clif.* 120. 375,  
 377, &c. *Rob.* 328. 2 *Saund.* 374, 375.  
*Side Compl. Soll.* 198, 207, 209, 214, &c.

A Man that is robbed in his Travel, may  
 recover his Loss in Damages from the Hun-  
 dred upon the Statut. of 13 Ed. 1. 28 Ed. 3. 11.

Where-ever this Action is maintainable  
 against the Hundred, these things must be  
 in the Case.

1. The Party robbed must give speedy no-  
 tice thereof to, and make Hue and Cry at  
 the next Village, be it in the same, or o-  
 ther Hundred or County; and it is safe to  
 give notice to many of the Inhabitants on  
 that side which way the Thieves do fly,  
*Noy's Rep.* 155. If it be in *diversis Hundred's*,  
 Notice to either is good, 2 *Cro.* 675.

2. The Action for it must be brought  
 within a year after the Day of the Robbery  
 done; and yet not till after 40 days are  
 past; and if one of the Robbers is not ta-  
 ken within 40 Days, the Hundred is  
 chargeable.

3. He must within 20 Days next before  
 the Action brought, and Test of the Ori-  
 ginal Writ be examined upon Oath (before  
 one of the next Justices of the Peace of  
 the

Statute de  
Hue & Cry.

the County, in or near the Hundred) whether he knoweth any of the Parties that robbed him. And if he do know any of them, then before the Action brought, he must be bound by Recognizance before that Justice, effectually to prosecute them, 27 Eliz. 13. And yet have this Action against the Hundred, if none of the Malefactors be taken.

4. The Robbery must be done in the day-time, that is, by clear day-light, though it be before Sun-rising, or after Sun-setting, 1 Cro. 270. 2 Cro. 106. Brownl. 70. Stiles Rep. 233. Leon. Pl. 72.

5. The Robbery must be on the Highway, for it lieth not on a Robbery upon me in my House.

6. The Felons must be fled, for if any of them be apprehended, although it be by the Party robbed, the Action will not hold; but pursuit without taking will not excuse the Hundred.

7. It must be a Robbery upon the Person, for if a Man is gone aside, and hath left his Horse tied with his Cloak-bag, and in the mean time the Thief take his Cloak-bag; or if a Carrier be behind his Horses, and not near them, and his Packs be robbed before he come, no Action will lie for this.

Note, That if a Servant or Carrier be robbed of his Master's Money or Goods, the Master may sue, but then the Servant or Carrier must be examined upon Oath; but if he will not be examined, the Master has no Remedy; and in these Cases a Master, &c. may be a Witness in his own Cause,



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he must make clear Proof of the Goods, *Statute de Hue & Cry.*  
*Cro. 224.*

Also if a Carrier, that is answerable, be robbed of another Man's Goods, either he or the Owner may Sue, *2 Saund. 380.*

Where a Robbery is done between two Hundreds, both Hundreds and Franchises with them shall be charged with it.

If it light upon any Persons in particular, they must have help by way of Contribution from the whole Hundred by the Aid of the Justices, when the Execution comes.

Where any Default hath been in following the Hue and Cry by any other Hundred, the Hundred charged with the Robbery may recover half their Damage again of the Hundred making default.

This Action may be brought by Bill or Original, *Stiles Rep. 215.*

That the Plaintiff ought to shew in his Count the particulars of the Goods (though it need not be so in the Writ) and to what Persons they belonged, *Saund. Rep. 2. 379.*

A Man that occupies and holds Lands in his own Hands within the Hundred, although he have no House, nor ever lodge in the Hundred, is an Inhabitant within the Intent of the Statute, and shall be chargeable with the Robbery committed there, *Idem 423.*

Where the Robbery is in *in divisis Hundredorum*, there the Party may give notice to either of them; and though it be given five Miles from the place, when in the Hundred 'tis good; and though a Notice be

Statute de  
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be given at one Town, and Hue and Cry at another Town, 'tis good; and notice given to the next Village forward in the Road, is good, although it be in another Hundred, and although there be another Village on one side nearer in the same Hundred, *Vide* 2 Cro. 675. March. Rep. 11. Noy's Rep. 52, 155. Leon. Pl. 72.

It may not here be improper to observe some things in general, relating to Actions upon the Statute.

### Of Actions upon the Statute.

Actions on the Statute may be said to be either Private or Popular.

1. An Action upon the Statute Private, is a Writ founded upon a Statute, whereby an Action is given to one in a Case where no Action was before; as upon Robbery, Perjury, Fraudulent Conveyances, &c. in this Case he that is hurt may have this Action upon the Statute and his Case.

2. An Action Popular, is an Action given upon the Breach of some Penal Statute, the which every Man that will, may sue for himself and the King, by Information or otherwise, as the Case and Statutes are; as the Writ called *Decies Tantum* against a Juror that takes Money to give his Verdict, is of this nature, and many others there are.

3. So the difference between this Action Private, and an Action Popular, is, that the Action Popular is given to the King. and whom-

## Of Declarations.

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whomsoever will sue ; but this is given to the King and the Party grieved only, and no other Person can bring the Action.

4. And where the Statute doth run thus, That the King shall have the one Moiety, and he that will inform (and not the Party grieved) the other Moiety ; this is an Action Popular that is given by the Statute.

And this Action Popular when one hath, another cannot pursue it.

Where a Statute gives an Action for a Forfeiture to the King, and to the Party grieved, if the King begin the Suit first, then the Party grieved cannot sue, but the King shall recover the whole Penalty.

And it seems also that the King may release the Forfeiture to the Offender, before the Informer begin his Suit, and thereby bar the Informer for ever, *Crompt. Jur. fol. 1. 38.*

Release;

All these Actions which shall be brought for any Forfeiture, upon any Penal Statute by which the Forfeiture is given to the King, shall be brought within two years after the Offence done, and not after.

Within  
what time  
it must be  
brought.

But if the Forfeiture be given to the King and the Informer, then it must be brought by the Informer within a year next after the Offence committed, and in default of the Informer, by the King within two years after the end of that Year, otherwise it shall be void, *31 Eliz. c. 5.*

But this is to be understood only, where shorter or other time is not appointed by the Statutes.

Note,



Sraute de  
Huc & Cry.

*Note*, I do not here pretend to set down Presidents for all Statutes (which would fill a large Volume) but only for such as are likeliest to be most used, and leave the rest to the Collection of the Reader, &c.

Upon the Statute of 3 *Eliz.* 2. for Arresting the Plaintiff upon a Bill of *Middlesex* at the Suit of *G. M.*

ff. **A** B. imper de P. in Comd Verō Gen sūm fuit ad respondend P. B. de plico quod reddat ei 72 l. quas ei debet & injuste detinet, &c. & unde idem J. p. S. H. Actorū suū dicit quod cum in Statuto in Parlamento Dñe Elizæ bethe nuper Regine Anglie apud Westm in Comd Quidā ultimo die Decembris Anno Regni sui octavo per Prorogationem tene & ibidem continuat usque Dissolutionem ejusdem (inter alia) inactitae fuit auctoritate Parliamenti illius quod si aliqua persona vel persone ad aliquod tempus post primum diem Januarii erant tunc p' sequend per aliquam viam vel medium malitiose vel p' betatione & molestatione causaret vel causarent pcurare vel pcurarent aliquam aliam personam vel personas arrestari vel Attach ad respondend in aliquibus Cur vel locis in eodem Statute mentionat videlicet in Cur Dñe Regine vocat the Queen's-Bench Cur Warrese vel in aliqua Cur infra Civitatem London vel in aliquibus Civitatibus Burgis

Burgis Villis Incorporat seu aliis loco  
 vel locis ubi aliqua Libertas vel Pri-  
 vileg tunc usitat foret tenend p[re]senta in ali-  
 quibus Actione vel Actionibus persona-  
 libus ad Sectam vel sub Nomine alicu-  
 jus Personae vel Personarum ubi reuera  
 non fuit talis Persona cognie vel sine  
 Assensu Consensu vel Agreame[n]te tal Per-  
 sone vel Personarum ad quorum Sectam  
 vel sub cuius Nomine tale Arrestu[m] sive  
 Attachiamen[tu]m sic hic vel p[ro]curat[ur] esset  
 quod tunc quelibet tal persona vel per-  
 sone que sic causaret sive causarent p[ro]cu-  
 raret sive p[ro]curarent aliquod tale Arre-  
 stum vel Attachiamen[tu]m aliquarum al  
 persone vel personarum h[ab]end[um] vel fiend[um] p[er]  
 vexatione vel molestatione ut p[re]fertur. Et  
 inde condice foret sive forent vel legitimo  
 modo accusat[ur] per Indictamentum duor[um]  
 sufficiend[um] Testium aut plur[im] vel debitam  
 p[ro]bationem p[ro] qualibet tali offensa per  
 ipsum vel ipsos commiss[am] face sive p[ro]cu-  
 rat[ur] heret & sustineret herent & sustinerent  
 Imprisonam[en]t[um] ejus vel eor[um] corporis sive  
 corporum p[er] spacium sex mensium sine  
 Bailio sive Manucap[ti]one & quod ante-  
 quam ipse vel ipsi largirentur solberent  
 parri sive partibus sic arrestat[ur] sive attach[ur]  
 per ejus vel eor[um] media sive p[ro]curato-  
 nem triplicia custagia onera dampna vel  
 expensas in triplo que ipse vel ipsi susti-  
 neret vel sustinerent ratione vel octone a-  
 licujus t[er]tis arresti sive attach sic hic ac e-  
 tiam forisfaceret & solberet forisfacerent  
 & solberent tal persone vel personis sub  
 quorum nomine sive nominibus ad qua-  
 rum

Statutes.

rum Sedam ille vel illi procuraret vel procurarent tale arrestum sive attach heri vel fieri si tunc foret aliqua talis persona cognita sumam decem Librarum pro qualibet tali offensa et ulterius per idem Statutum inactitae fuit auctoritate ejusdem Parliamenti quod quolibet persona et persone cui vel quibus aliqua custodia onera dampna forisfecit vel solutio alicujus Summi vel Summarum Pecunie Auctoritate Actus predicti adjudicaretur (Anglice should be awarded) adjudicaretur vel forisfieret ad omnia tempora extunc deinceps debuissent et potuissent habere ejus vel eorum remedium pro recuperatione inde per actionem debi vel querelam in aliqua Curia de Recordo versus talem personam sive personas Executores sive Administratores suos qual eadem solvere debuissent virtute vel vigore Actus predicti in quibus Actone Billa vel Querela nulli Effortio protectionis vel vadiatio Legis admitteretur sive allocaretur alicui defensori vel defendentibus in eisdem prout per Actum ille inter alia plenius liquet et apparet Predicti tamen A. Statutum predicti minime ponderans nec penam in eodem Statuto aliquam habens post predictum diem Januarii in Statuto predicti mentionat scilicet decimo die Maii Termino Pasche Anno (Ec.) malitiose pro veratione et perturbatione ipsius J. prosecutus fuisset extra Curiam dicti Domini Regis coram ipsa Regina vacat Queen's Bench, quoddam preceptum ipsius Domini Regis vocat a Bill of Middlesex, versus ipsum J.

ad



ad Sextam & sub nomine cuiusdam G. M.  
 sine assensu consensu sive agreement ipsi  
 G. p quod quidem preceptum idem Dña  
 Regind nunc Die Michi pcepit quod idem  
 Die caperet predicti J. si, &c. & salvo, &c.  
 ita quod heret corpus eius coram ipsa  
 Dña Regind apud Westm die Sabbati  
 pr' Crast' Ascension' Dñi ad respondend  
 plac' G. de placito tñlgr (Ec.) ptertu cu  
 jus quidem pcepti predicti A. postea scit  
 decimo quarto die Maij Anno (Ec.) su  
 pposito apud Civitat' Westm predict  
 eundem J. sine assensu consensu sive a  
 greement predicti G. ad sex' ejusdem  
 G. arrestari ac ad Prison' dict' Dñe Regind  
 de Newgate, per predicti tunc Die Michi  
 duci & in Prisona ibm diu videlt per  
 spatium trium septimanarum tunc pr'  
 sequend ad sextam predicti G. detineri cau  
 sabit & procurabit quousque idem J. in  
 venisset sufficiens securitatem ad respon  
 dend plac' G. de plito pdict' contra for  
 mam & effectum Statuti pdicti ptertu  
 quorum quidem Arrestationis Impriso  
 namenti & in Prisona predicti detentionis  
 in forma predicti facti idem J. pro liber  
 tate & inlargiamento suis in hac parte  
 hend & procurand ac p defensione sua in  
 hac parte fiend coactus & compulsus fuit  
 expendere & erogare duodecim Libras  
 legalis Monete Anglie Ac etiam idem  
 J. sustinuit ad valenciam al' duodecim  
 Librarum consils legalis Monete Anglie  
 eo quod diversa negotia ardua & urgen  
 tia ipsi J. totaliter infecti cessione pre  
 miss remanser que quidem sepat dena  
 riorum

*Statutes.* *W* riorum summe in toto se atting' ad viginti  
 & quatuor Libr' p quod ac vigore Sta-  
 tuti p'dice Acto accrebit eidem J. ad eri-  
 gend' & hend' de p'fac' M. septuaginta & du-  
 as Libr' videlt triplicia custag' onera  
 dampna & expens' per ipsum J. in forma  
 p'di expendie erogae & sustentae or'one  
 Arrestar' Imp'isonamenti & in Prisona  
 detent'onis p'dice per p'fac' M. in forma  
 p'dice malitiose & p' verac'one & mole-  
 stac'one ipsius J. sic sine assensu consensu  
 sibe agreamene p'dice G. necnon contra  
 formam Statue p'dice causae & procurat  
 p'dice tamen M. licet sepius requisit'  
 (&c.\*) dampnum habet ad valentiam  
 centum Librarum. Et inde producat  
 &c.

See Presidents, *Rast. Ent.* 598, 599. *Thomp.*  
 82. *Bro. Red.* 460. *Rob.* 326.

See *Stat. de Maintenance & Champerty.* vide  
*Rast.* 182. 189, &c. 1 *Bro.* 96. 2 *Bro.* 30.  
*Rob.* 332, 420.

*De Laborers, Apprent. &c.* 1 *Bro.* 93. 2  
*Bro.* 176, 177. *Clif.* 130. *Rob.* 337.

*De Recusancy, Clif.* 129. 133. *Reads. Des.*  
 157. 175.

*De Symony, Bro. Red.* 469.

*De Imbracery, Pl. Gen.* 89.

*De Forgery, Rob.* 410. 435. 441. *Pl. Gen.*  
 93. 1 *Bro.* 93. *Thomp.* 80.

*De Perjury, Thomp.* 92. *Bro. Red.* 470.

*De Subornation, Bro. Red.* 473. (&c.)

Narr' in debito sur Statute de Usury  
Anno 12 Car' 2.

London n. **E**. B. qui tam p Domina.  
Regin quam p seipso in  
hac parte sequitur queritur de J. W. in  
custod Harr &c. de pito quod reddat  
dicto Dñe Regin & eidem E. quatuor  
mille & octingene Libras legalis Monete  
Angl quas dicto Dñe Regin & eidem E.  
debet & injuste detinet p eo videlt quod  
cum post vicesimū nonū diem Septem-  
bris Anno Domi millimo sexcentesimo  
sexagesimo scilt decimo nono die Martij  
Anno Regni Dñi Caroli Secundi nup  
Regis Anglie &c. quarto decimo apud  
London videlt in Parochia Beate Marie  
de Arcubus in Warda de Cheap London  
p bid & mediu corrupte barganie agreea-  
rum fuit inter quendam R. B. & pze-  
fat J. W. quod pze J. W. accommo-  
daret pze R. B. octingentas Libras le-  
galis Monete Anglie a pdicto decimo nono  
die Martij Anno decimo quarto supra-  
dic usq 20 diem Martij jam pr' futue  
quodq pze R. B. daret eidem J. W. p  
differendo & dando diem solutonis (An-  
glice for forbearing and giving day of pay-  
ment) eidem R. B. pze octingene Libe  
a pze decimo nono die Martij anno quar-  
to decimo supradicto usq pze vicesimum  
diem Martij jam pr' futui viginti Li-  
bras legalis Monete Anglie in manibus  
& quadragine & octo Libras sup pze vice-



Statutes.

~~~~~  
 secundū diem Martij jam pr' futurū solvent  
 & idem E. qui tam &c. in facto dicit quod  
 p'res J. W. p' viam & mediū corrupte  
 barganie & agreementi p'res postea scilicet  
 p'res decimo nono die Martij Anno quar-  
 to decimo supradicto apud London p'res  
 in Paroch & Warda p'res accepit accep-  
 tabit & recepit de p'sae R. B. p'res viginti  
 Libras p' differendo & dando diem solu-  
 tionis (Anglice for forbearing and giving  
 day of payment) eidem R. B. p'res octim-  
 gene Libr' a p'dict' decimo nono die Mar-  
 tij Anno quarto decimo supradicto usq'  
 p'dict' vicesimum diem Martij jam pr'  
 futurū que quidem vigine Libr' p' ipsum J.  
 W. sic in manibus recepit & p'dict' quadra-  
 gine & octo Libr' sup' p'dict' vicesimum diem  
 Martij jam pr' futurū secundū formam  
 corrupte barganie & agreement' p'dict'  
 eidem J. W. solvent' excedunt & sunt su-  
 pra & ultra ratam sex librarū p' diffe-  
 rendo (Anglice forbearing) centum Libr'  
 p' uno Anno contra formam & effectum  
 Statuti illius in hujusmodi casu edic-  
 tis p' quod virtute Statuti illius Actio  
 accrebit eidem E. qui tam &c. ad exigendū  
 & habendū de p'sae J. W. p' dicto Dño  
 Rege & seipso duo mille & quadringentis  
 libras parcell' p' triplici valore p'dictarū  
 octingentarū librarū p' p'sae J. W. con-  
 tra formam Statuti p'dict' sic ut p'fertur  
 accominodae & abstine (Anglice forbear)  
 Cumq' etiam p'dict' J. W. postea & post  
 vicesimū nonū diem Septembris Anno  
 Dñi millimo sexcentesimo & sexagesimo  
 supradicto videlicet quinto die Julij Anno  
 quarto

quarto decimo supradicto apud London  
 dia in Paroch & Warda pdia p viam  
 medium corrupte barganie sup quo  
 am al contract p accommodaone (An  
 llice lending) al octingene Libe similis  
 monete de denariis ipsius J. W. ppi ine  
 fac R. B. & pdia J. W. post pdia  
 cessum nonu diem Septembris Anno  
 Dni millimo sexcentesimo & sexagesimo  
 est pdia decimo nono die Martij Anno  
 quarto decimo supradicto apud London  
 dia in Parochia & Warda pdia fact ac  
 cepit acceptabit & recepit de pdia R. B.  
 summam triginta & quatuor Librarum  
 regalis monete Anglie p differendo &  
 ando diem soluconis (Anglice for the  
 forbearing and giving day of payment)  
 idem R. B. pdia octingene Libe ulc  
 menconae a pdia decimo nono die Mar  
 tij p spatiu triu mensiu & dimis unius  
 mensis tunc pr sequeu attingen & eri  
 ed ultra & supra ratam sex Librarum  
 differendo (Anglice forbearing) centu  
 Libe p uno anno contra formam Statuti  
 huiusmodi casu edic & pvis p quod &  
 rigore Statuti illius acto accrebit eidem  
 E. qui tam &c. ad exigend & habend de  
 clato J. W. p dicto Domino Rege & p  
 cepto al duo mille & quadringene Libe  
 ditarum quatuor millium & octingen  
 taru Libraru resis p triplici baloze pre  
 ditatu octingentaru Libraru ulc men  
 conae p plac J. W. contra formam Sta  
 tuti pdia sic ut pfertur accommodae &  
 abstene (Anglice forborn) pdia tamen  
 J. W. licet sepius requisit &c. pxd qua  
 tuor

Statutes. tuoz mille & octingene Libi dicte Die  
 Regid & eidem E. qui tam ec. nonbd sol-  
 bit sed illas die Dñe Regid & eidem Edm  
 hucusq; solte omnino contradixit & adhuc  
 contradic ad dampnd ipsius E. centd  
 Libzard Et inde pduc Sextam &c.

21 Jac. I. vers' Scriptor' for Brokage.

ff. **A.** B. queritur de C. D. in custod  
 p Mari &c. p eo videlt quod cum  
 p quendam Actum in Parlamento Dñi  
 Jacobi nup Regis Anglie &c. inchoat  
 & tene apud Westm in Com Midd de-  
 cimo nono die Februarij Anno Regni  
 sui Anglie Franc & Hibernie 21 & Secd  
 . . . . . ibidemq; continuat usq; pimum  
 diem Novemb Anno Domd 1624. edic  
 (inter alia) inactitae existit Auctoritate  
 Parliamenti illius Quod omnes & qui-  
 libet Scriptor & Scriptores ppolat & ppole  
 (Anglice Broker and Brokers) Sollicita-  
 tor & Sollicitatores Promotor & Pro-  
 motores (Anglice Driver and Drivers)  
 barganizarum p contractibus qui post  
 vicesimum tertium diem Junij qui foret  
 in Anno Domd 1625. in eodem Actu men-  
 tione caperent vel reciperent directe sive  
 indirecte aliquam summam sive lummam  
 Pecunie sive al muneratōm (Anglice  
 Reward) vel rem p ppolatōne (Anglice  
 Brokage) Sollicitatōne Promotōne (An-  
 glice Driving) sive Procuratōne Accom-  
 modatōnis (Anglice Loan) sive abstē-  
 tionis (Anglice the Forbearance) alicu-  
 jus



Note Stat.  
12 Car. 2.  
c. 13. pro-  
vides the  
like penal-  
ty and im-  
prisonment  
for the like  
offence.

us summe sive summarum Pecunie ul-  
tra & super ratam sive valorum quinq;  
solid p accomodatione sive absentione  
centum Librarum pro Anno & sic ratibilie  
sive ultra duodecim denar pro confectioe  
sive renobatione scripti Obligatorij sive  
Bille pro accomodatione sive absentione  
inde sive p aliqua Contrascripte Obliga-  
torio (Anglice Counter-Bond) sive Bille  
concernit eadem satisfacerent pro quali-  
bet offensione 20 l. & herent Impri-  
sonamento per dimid Anni quarum quidem  
omnium satisfactur una medietas foret  
Seremissimo Dño Regi Hered & Succes-  
soribus suis & altera medietas ei vel eis  
qui sequerentur proinde in eodem Com-  
muni ubi separales offensæ forent commissæ per  
actionem debi Billa Querela sive In-  
formationem in quibus null Effort vadi-  
atio Legis vel pterito foret allocac put  
p eundem Actum inter alia plenius liquet  
& apparet Et pcedit A. qui tam, &c. in  
facto dicit quod post pcedit vicesimum ter-  
tium diem Junii in eodem Actu mentio-  
nat scilicet vicesimo die Aprilis Anno Dñe  
Regin nunc secundo apud London in  
Parochia Beate Marie de Arcubus in  
Warda de Cheap pcedit C. qui Artem  
Scriptoris adtunc & ibidem exercuit &  
adhuc exercet Actum pcedit minime pon-  
derans nec penam in eodem contene ali-  
qualie verens tunc & ibm recepit de quo-  
dam H. G. contra formam & effectum  
Statuti pcedit bigine solid legalis monce  
Anglie p procuracionem centum Libr con-  
sulis monete Anglie p quendam R. S.  
antetunc

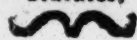
Statutes

antetunc scilt decimo nono die Apr An  
 no, &c. accommodae fore abstene per  
 spatium dimid Anni videlt a pdice vico  
 simo die Aprilis Anno duodecimo supra  
 dicto usq; vicesimū diem Octobr tunc pr  
 sequend qui quidem vigine solis p pfac  
 C. sic ut pferetur capē & recepe eodem tem  
 poze receptonis inde apud London pō in  
 Parochia & Warda pdice fuer ultra &  
 supra pdice ratam quinque solis p proci  
 ratione & abstentione centum libe pro  
 uno Anno per quod Acto accrevit eidem  
 A. qui tam, &c. ad exigend & hend de pre  
 fac C. p dice Dñe Regid nunc & pfac  
 A. qui tam, &c. pdice vigine libe jam  
 petie p ipsum C. juxta tenorem Actus  
 pdice in forma pdice p pdice injusta cap  
 tione sive receptione pdice viginti solis  
 pdie & forisface qm ad exigend quod pō  
 C. heat Imprisonament pro dimid anni  
 pdice tamen C. licet septius requisie pō  
 vigine libe eidem Domine Regine nunc &  
 pfac A. qui tam, &c. sic ut pferetur foris  
 fact eidem Domine Regid nunc & pfac  
 A. qui tam, &c. vel eorum alteri nondū  
 solvit sed ille ei hucusque solvere omnino  
 contradixit & adhuc contradic ad dam  
 pnum ipsius A. qui tam, &c. decem libe  
 Et inde, (&c.)

See Presidents, Clif. 128. Reads. Dec. 166.  
 Vidian. 192. 214. Bro. Red. 47c.

for driving Distress contrary to Statute  
1 & 2 Phil. & Marie.

Statutes.



Essex' ff. **A.** B. queritur de C. D. in  
Comine Regine coram ipsa Regina  
existend p eo videst quod cum in Statuto  
in Parlamento Dñi Philippi & Dñe  
Marie nuper Regis & Regine Anglie a-  
pud Westm in Com Middel duodecimo die  
Novemb annis Regni suorum primo & se-  
cundo inchoat & tene usq ad dissolutione  
inde videst sextum decim die Januarij  
tunc pr' sequend (inter alia) Authozitate  
ejusdem Parliamenti inactitae fuit quod  
de & a primo die Aprilis tunc p'or' se-  
quend nulla districtio Catallozum fugare-  
tur extra Rapam Wapentag sive Tath  
quo vel qua hujusmodi districtio sit aut  
foret cape nisi sit ad Parcum apertum in-  
fra eundem Com non ultra tria millia-  
ria distand a p'dicto loco quo dicta distric-  
tio cape sit sub pena quod quelibet person  
offendens contra Actum p'dice forisfa-  
ceret parti gravat p qualibet tali offensā  
centum solis & dampnum ad triplum p-  
ut in Statuto & Act' p'dice plenius con-  
tinetur p'dice tamen C. Statutum p'dice  
minime ponderans decem boves p'dict'  
A. pretij septuagint' Librarum (tal die  
& anno) apud L. infra Hundred de M. in  
Com Essex' p'dict existend nuper invent'  
distrixit & nomine districtionis cepit &  
eisdem Bovibus usq B. in p'dicto Com  
C.



Statutes.

**W** E. p septem milliaria ab H. p̄dict' distat  
 fugabit in Dñe Regine nunc contemptum  
 & ipsius H. grave dampnum ac contum  
 forina Statue p̄d unde dicit qđ deterio  
 rac est & dampnum het qđ valent centum  
 librarum. Et inde pduc' Sextam, &c.

See Presidents, 1 Bro.89. Thomp. 82. Rob.  
 430. 2 Bro.171. Rast.464. Co. Ent.43.44.

Forcible Entry upon the Statute of  
 8 H. 6. Cap. 9.

Quære.

ff. **A** B. nuper de (Hc.) C. D. nup de  
 (Hc.) C. F. nup de (Hc.) & G. H.  
 nuper de (Hc.) Attach fuerunt ad respon  
 dend tam Dom Regine quam H. W. Gm  
 de plito quare cum in Statuto in Parlia  
 mento Dom Henrici nuper Regis Anglie  
 sexti apud Westm Anno Regni sui octavo  
 tent' edit' inter alia contineatur quod si  
 aliqua persona de aliquibus terris vel  
 tētis manufozti expulsa sit & disseisita  
 vel pacifice expellatur & postea manufoz  
 ti extra teneatur vel aliquod p̄offamen  
 tum vel discontinuatio post talem ingres  
 sum suum p jure possessoris defraudand  
 tollend aliquo modo fiat habeat pars in  
 hac parte gravata & usq talem disseisitoz  
 assisam nobe disseisine vel h̄c de tūlge & si  
 pars gravata per assisam vel per actionē  
 de tūlgi recuperet & p hereditum vel alio  
 modo p debitam Regis forinā indeniat  
 quod pars defendens in terris & tētis vi  
 ingressa fuerit vel ea post ingressum suū  
 per

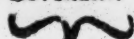
per vim post talem ingressum tenuerit re-  
 aperet querens dampna sua ad triplum  
 versus defens & ulterius finem & redem-  
 ptonem Dñe Regine fac put in eodem  
 Statuto plenius continetur p̄dicti A. C.  
 E. & G. in duas Acras Pasture ipsi⁹ R.  
 cum p̄tind in P. vi & armis ingressi fue-  
 runt & ipsum R. inde manufozti expule-  
 re disseisibet & ipsum sic expuls & dissei-  
 si manufozti extratenuerunt & adhuc  
 extratenent de eisdem in Dñe Regine con-  
 temptum & ipsius R. dampnum non mo-  
 dieum & gravamen & contra formam  
 Statuti p̄dicti & contra pacem Dñe Re-  
 gine nunc, &c. Et unde idem R. p. S. S.  
 Altorz suum queritur quod p̄dice A. C.  
 E. & G. decimo die Augusti anno Regni  
 Dñe Regine nunc quarto in duas acras  
 Pasture ipsius R. cum p̄tind in P. vi &  
 armis videlicet Gladiis Baculis & Cultel-  
 lis ingressi fuerunt & ipso R. inde manu-  
 fozti, viz. novem hominib⁹ modo guerrino  
 arraiat⁹ & armat⁹ expule- & disseisibet Et  
 ipsum R. sic expulsū & disseisit de p̄s  
 duabus acris Pasture cum p̄tind manu-  
 fozti p̄d extratenuerunt & adhuc extrate-  
 nent de eisdem ad grave dampnum, &c. ac  
 contra formam Statuti, &c. & contra  
 Pacem, &c. unde dic⁹ quod deteriorat⁹ est  
 & dampnum het ad valenc⁹ centum Lib⁹  
 Et inde p̄duc⁹ Sectam, &c.

See Presidents, *Rast.* 353. *Co. Ent.* 44. 315.  
*1 Bro.* 79. *Thomp.* 77, &c.

The next usual Counts and Declarations  
 are upon Actions for Breach of Covenant.

*Covenant.*

Covenant.



## COVENANT.

**A** Writ of Covenant is defined to be a Writ lying where a Man is bound by a Covenant in a Deed, and hath broken it; and in this Case commonly the Party damnified shall only recover damages for the Breach: And if the Plaintiff have Judgment in an Action brought for one Breach and afterwards the Covenantor doth break the Covenant again in any other, in this Case he may bring a new Action, and so for every Breach, 1 Co. 154. *Plowd.* 308. *Fitz. N. B.* 145.

A Covenant is either expressed in the Deed, or implied by Law, as by the word *Demise* or *Grant*, the Law doth imply and intend that the Lessee shall quietly enjoy during the Lessors Life, 4 Co. 8. *Dyer* 388.

A Covenant may be in the Affirmative or in the Negative; and it may be executed, that is, of a thing already done, or executory, *i. e.* of a thing that shall be done hereafter: But if it be of a thing present, it may be void; as if I Covenant that my House is yours, this is void, *Plowd.* 330. 27 H. 8. 16.

Covenants made by Deed Poll, are as good and effectual as those made by Deed indented, so as the Party have the Deed to shew; but Covenant doth not lie upon a verbal Agreement, neither can it be grounded without a Writing, except by some



me special Custom, as in *London, F. N. B. Covenant*:  
*5. G. 3 Co. 63.*

There needs no great formality in the words to make a Covenant; for if the words of a Deed run thus, *That the Lessee shall repair, provided always that the Lessor shall allow Timber; or That the Lessee shall dig Ditches, provided that the Lessor do carry away the Earth; also, That the Lessee shall pay Twenty shillings a year Rent; or, That the Lessee shall not alien,* and the like; these are said to amount to good Covenants on both sides, &c. *2 Co. Lord Cromwel's Case, 57. 150.*

But regularly in all Cases where words that do begin the Sentence are conditional, or have the effect of a Condition, and do give another Remedy, there they shall not be construed to make a Covenant: Yet if words of Condition and words of Covenant be coupled together in the same sentence (*as provided always, and it is covenanted,* and the like) in such Cases the words may be construed to make a Covenant and Condition both, *Bro. Cov. 21, 26, 8. Descent 50.*

And note, That where a Covenant is annexed conditionally, and so as one thing is the cause of another (as if one covenant be *to pay me 10 l. if I serve him a year; or to new-build a House so as he may have the old Materials*) in all these Cases, if the Cause or Condition be not observed, the Covenant shall not be performed, *Co. Lit. 204. Dyer 371.*

Where

Covenant.



Where the substance and matter of Covenant to do any thing is lawful, such Covenant is good; and generally where Condition for the matter of it is good, Covenant comprehending the same matter is good also.

But if the matter required to be, or not to be done by the Covenant, be unlawful in the Substance thereof, then is the Covenant void, and doth not bind: So if the Covenant be impossible, 27 H. 8. 27. *Wells Symb. 1 part Plowd. 308. Dyer 6. 13, 25, 1, 2, 3, 324. Fitz. Cov. 1.*

1. A Covenant is to be always most strongly taken against the Covenantor, and most in advantage of the Covenantee.

2. To be taken according to the intent of the Parties.

3. *Ut res magis valeat, &c.*

4. When no time is limited for the doing of the thing, it shall be done in reasonable time, and the like, *Plowd. 287.*

Any one that is Party to the Deed to whom the Covenant is made, may take advantage of the Covenant, but not a Stranger.

As if *A.* Covenant with *B.* to do an Act to *C.* who is no Party to the Deed, and he doth it not; *B.* and not *C.* must sue him upon this Breach.

And regularly all those that do seal and deliver the Deed, and are named and bound by the express words of the Covenant (whether it be Collateral or Inherent) are bound by the Covenant contained in the Deed.

And therefore if Heirs, Executors, Administrators, or Assigns be named in the Covenant, for the most part they are bound by the Covenant.

And in all Cases of Inherent Covenants, *Inherent Covenants* that tend to the support of the thing granted (in respect of which it is presumed the Lessor took the Lessee for the Land) where a Man doth covenant for himself only, and doth not name his Executors and Administrators, or either of them; yet they are bound, and may be charged by the Covenant notwithstanding; and in some Cases the Law is so also for Collateral Covenants.

And in most Inherent Covenants, such as have the Land, albeit they be neither Executors nor Administrators, or either of them, but Assigns, &c. shall be charged by the Covenant; though they be not named, for these Covenants are said to run with the Land, 5 Co. 16, 17, 18.

Where the Deed it self wherein the Covenants are contained, or the Estates on which the Covenants do depend, is gone and determined; there regularly the Covenants are gone also.

But the Surrender of a Lease doth not discharge the Breach of Covenant which before the Surrender, *Dyer 10. 10 Co. 23. Bro. Surrender 47. Covenant 42.*

Where a Covenant is become impossible to be done by the Act of God, by this the Covenant is discharged; as where *J.* covenants to serve *B.* seven years, and dies before



Covenant. before the seven years be expired, 1 Co. 98.  
*Plowd. 286.*

Where there is an expresse Covenant in a Deed for quiet enjoyment, the implied Covenant is gone, 2 Co. 80.

By a Release of all Covenants from the Covenantee, the Covenant is discharged, so as the Release be by Deed, for a Covenant by Deed cannot be discharged by Word. Therefore if *A.* covenant with *B.* to build a House by a Day, and in the mean time *B.* doth bid or desire him to let it alone; this doth not discharge the Breach of the Covenant, but the Lessor may sue for it notwithstanding, *Pasch. 6 Car. Banco Regis.*

See more at the latter end of these Precedents of Covenant.

Also see the Method of Pleading. *Alibi* the Third Part of *Instructor Clericalis*, *T. eodem.*

Upon an Indenture of Demise to the Plaintiff, that the Defendant did not amend or keep in repair the Mill and other the Premisses according to his Covenant.

*N.* **A.** *B.* Gen queritur de *C. D.* in *A.* custod *Marri* &c. de p<sup>re</sup>lito Conventione fract' p<sup>er</sup> eo videlicet quod cum p<sup>er</sup> quandam Indentur factam apud *F.* in Com<sup>itatu</sup> p<sup>re</sup>dict inter ipsum *C. D.* p<sup>er</sup> nomen *C.*

C. D. de M. in Comd I. Gen ex una <sup>Covenant.</sup> parte & p̄dica' A. B. p nomen A. B. de G. in Comd p̄dica' Yeoman ex altera parte gerend' dac decimo quinto die Septembzis Anno (ec.) cujus quidem alteram partem Sigillo p̄dca' C. D. Sigillae idem A. B. hic in Cur' p̄fert cujus dac est eisdem die & anno testae sit quod p̄dca' C. D. dimississet concessisset & ad firmam tradidisset p̄dca' A. B. totū illud Molendinū suum Aquaticum vocat Warrington Mill cum omnibus Domibus Edificiis Aque Curribus Piscibus Piscariis Terris Tenementis Pratis Pastui Communitis & omnibus & singulis aliis Proficuis Commoditat & Pertinentiis dicto Molendino spectand' vel ptinend' scituac jaced' & existend' in Parochia de H. in p̄dca' Comd I. nup in tenura vel occupacione cujusdam H. J. Habend' & tenend' dictum Molendinum hoc Warrington Mill cum omnibus Domibus Edificiis Aquis Aquarum Curribus Piscibus Piscariis Terris Tenementis Pratis Pastui Leisuris vocat' Resolus & Communitis & omnibus aliis p̄missis cum ptinend' p̄dca' A. B. Executoribus & Assignis suis a festo Sancti Michaelis Archi extunc p̄r' sequend' dac Indenture p̄dca' usq' finem & terminum vigine & unius annorū extunc p̄r' sequend' & plenat complend' & finiend' Redend' & solvend' p̄inde annuatim durand' termino p̄dca' p̄dca' C. D. Heredibus vel Assignis suis decem libras bone & legalis Monete Anglie ad duos anni terminos videlicet ad festa Annunciatonis Beate Marie Virginis

Covenant.



ginis & Sancti Michaelis Archi p equas  
 & equales portiones Et si contingat di-  
 citum annualem redditū decem Librarum  
 a retro fore & insolue in parte vel in toto  
 post spatium unius mensis post aliquem  
 terminum solutōem ejusdem in quo soluisse  
 debuit legitime petie & rogat quod tunc  
 & ad omne tempus postea licitum esset ad  
 & p p̄dicta C. D. Heres & Assigni suis in  
 Molendinum p̄dict & cetera omnia p̄missa  
 cum p̄tinent totaliter reintrare & eadem  
 rehabere retinere & repossidere ut in p̄iori  
 statu suo Et p̄dicta A. B. Executor &  
 Assigni suos & omnes alios de & ab eis-  
 dem totaliter expellere ejicere & amovere  
 (Indentur vel dimissioni p̄dicta in aliquo  
 non obstant) & p̄dicta C. D. p se Heredi-  
 bus Executoribus Administratoribus &  
 Assigni suis convenit & concessit ad & cum  
 p̄fate A. B. Executoribus Administratoribus  
 & Assigni suis p Indenturam p̄-  
 dictam quod ipse idem C. D. Heres vel  
 Assigni sui ante p̄dicta Festum Sancti  
 Michaelis Archangeli extunc p̄r sequen-  
 dae Indentur p̄dict ad ejus vel eorum p̄-  
 pria onera & custagia bene & sufficiente re-  
 pararent emendarent & tenentabile face-  
 rent p̄dicta molendinum & omnes domos  
 & edificia eidem spectant in & cum omni-  
 bus reparacionibus tam in Maherenis  
 Opere & Lapidibus Molendinarum quam in  
 omnibus aliis rebus & eadem sic reparat  
 & tenentabile facta onerarent & manutene-  
 rent cum bonis & sufficiente lapidibus mo-  
 lendarum & omnibus aliis reparacionibus  
 de tempore in tempus & ad omnia tem-

po



poza quando & quotiescunq; necesse fuerit  
durante termino p̄dict' Et ulterius p̄re-  
dict' C. D. p̄ se Heredibus Executozibus  
Administratozibus & Assignis suis con-  
venit & concessit & ad cum p̄fac N. B.  
Executozibus & Assignis suis p̄ Inden-  
turam p̄dictam non solum warrantizare  
& defendere dictum molendinum & cetera  
omnia p̄missa p̄fac N. B. Executozibus  
& Assignis suis in modo & forma p̄dict'  
durante dicto termino contra omnes per-  
sonas & personas sed etiam indemnem  
conservare p̄dict' N. B. Executors &  
Assignis suos & omnia p̄dimissa dimissa  
de & ab omnibus reddit' extra reddit' &  
al reddit' vocat Quitrents ex eund de p̄re-  
missis vel cum quibus eadem p̄remissa  
vel aliqua parcella eozundem fuerit vel  
esset onerac durane p̄dict' termino vigine  
& unius annozū al quam p̄dict' annuat  
reddit' decem Libzarum p̄out p̄ Inden-  
turam p̄dictam plenius liquet & apparet  
Et licet ipse idem N. B. omnia & sin-  
gula convenções agreamene & conces-  
siones in Indentura p̄dict' ex parte sua  
p̄implend & p̄formand bene & fidelie per-  
formabit & p̄implebit tenuit & custodibit  
juxta formam & effectum Indentur p̄re-  
dict' p̄dict' tamen C. D. Domum Man-  
sonalem ejusdem Molendini in defectu  
regulazonis & omnes parietes ejusdem  
Domus in defectu le Lathing and Dawb-  
ing ac in defectu de Grounselling ac in de-  
fectu diverlarum peciarum maheremij  
& asserum voc Board necnon les Flud-

Covenant.

gates in defectu maheremij que pdice C. D. principio termini pdice secundum formam & effectum Indentur pdice emendare & defensibil facere debuit secundum conventionem suam pdice minime reparabit sed idem C. D. Molendinum Domum & Edificia pdice in maximam & extremam ruinam a principio termini pdice usq; diem exhibitionis hujus Billae scilicet decimum nonum diem Octobris Anno (Hc.) ire & decedere permisit & sic idem A. B. die quod pdice C. D. conventionem suam pdice de eo quod idem C. D. ad propria onera & custagia sua Molendinum & Domum Manonae pdice bene & sufficiente non reparabit nec emendabit quoties necesse fuit p̄fac A. B. non tenuit sed conventionem illam infregit & illam ei tenere contradixit & adhuc contradicere ad dampnum ipsius A. B. centum Librarum Et inde pduc Sextam, &c.

*Note, Upon a Covenant to repair Houses the Breach must be assigned particularly.*

See Presidents, *Cl. Man.* 191. 1 *Bro.* 132. 143. *Winch* 140, 144. *Vidian* 121, 138. 128. *Bro. Red.* 143, 157, 161. *Clif.* 214. 1 *Saund.* 321. *Thomp.* 98. 2 *Ven.* 54, 123.



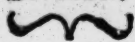
Upon Indentures to save harmless, &c.

**A.** B. nup de (&c.) Nri sum fuit ad respondend C. D. Nri de plito hoc teneat ei Conventiōem in eog face secundu vim forma & effectū quarundam Indenturaru inde inter eog confect &c. Et unde idem C. p C. f. Atrozū suum hic quod cum p quandam Indenturam ac apud G. (tali die & anno) inter ipum C. D. p nomen (&c.) ex una parte & fac A. B. p nomen (&c.) ex altera parte ejus alteram partem Sigillo p̄dict' A. signae idem C. hic in Cur p̄fert cujus ac est eisdem die & anno testae quod um (&c. as in the Indenture) — Et sic The Con- dem C. die quod p̄dict' A. licet sepius clōn of the Decla- requisitū conventiōis p̄dict' de eo quod ipse ration. Hered Executor & Administr sui ad omnia tempora post confectiōem Indenture p̄dict' exonerarent & indempnem conserba- rent ipsum C. Heredes Exec & Administr suos de p̄dict' annuat reddie 7 l. & arrera- tijs ejusdem ille idem C. non tenuit sed infregit & ill ei hucusq; tenere contra- xit & adhuc contradie unde die quod de- teriorae est & dampnū bet ad valent 100 l. Et inde p̄duc Sextam, &c.

See Co. Entr. 113. Rast. 136. Rob. Entr. 70. Winch 159.



Covenant.



Upon a Demise of Tithes to the Plaintiff for Twelve Years, whereas the Defendant did agree that the Plaintiff should quietly enjoy the Premises without disturbance, yet the Defendant entred upon the Possession of the Plaintiff within the Term.

**H**ENRICUS Simpson queritur de Ricardo Richards in custodienda Warda de plito conventonis fracte p eo videlicet quod cum p quandam Indenturam factam apud London videlicet in Parochia Beate Marie de Arcubus in Warda de Cheap primo die Aprilis Anno (et.) inter ipsum R. R. p nomen R. R. de Newark super Trent in Com Notte Gen ex una parte pzed H. S. p nomen H. S. de London Gen ex altera parte cuius quidem Indentur alteram partem Sigillo ipsius R. R. Sigillae gerend dæ eisdem die & anno idem Henricus hic in Cur pfert testificatio quod pzed R. R. p diversis bonis causis & consideracionibus ipsum abinde specialiter moventibus ac p & in consideracione summe [and so recite the Indenture over the Covenant] put p eandem Indenturam hic in Cur plac liquet & apparet Et pzedice H. in facto dicit quod licet ipse idem H. semp a tempore confectio Indenture pzed hucusq bene & fideliter observabit pformabit & pimplebit omnia & singula conventio concessio articulos &

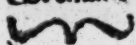
agrea

agreement in Indentura p<sup>d</sup> superi<sup>o</sup> spe. Covenant.  
 officat ex parte ipsius H. performandi pim.  
 plend & custodiend juxta vim formam &  
 effectum Indentur illius p<sup>d</sup>ice tamen R.  
 R. post consecutionem Indentur illius &  
 infra p<sup>d</sup> duodecim annos scilicet tertio die  
 Julij anno (R.) apud R. p<sup>d</sup> in decimas  
 hereditarie p<sup>d</sup> sic eidem Henrico p<sup>d</sup>ice R.  
 R. in forma p<sup>d</sup> ut p<sup>r</sup>sertur dimissa super  
 possessionem ipsius Henrici intravit & ipse  
 a perceptione decimarum ibidem interrupit  
 & disturbavit ac duas Carretas Critici  
 ad valenc (R.) p<sup>d</sup> decimis ibidem a nobem  
 parribus separas egerit & adtunc & ibidem  
 cepit & asportavit & sic idem Henricus di-  
 cit q<sup>d</sup> p<sup>d</sup> Ricus conventionem suam p<sup>d</sup>  
 cum eodem H. in forma p<sup>d</sup> face (eo quod  
 p<sup>d</sup> Henricus Executores Administratores  
 & Assigni sui & eorum quilibet deberet &  
 posset pacifice & quiete habere tenere pos-  
 sidere & gaudere omnia & singula dimis-  
 sa p<sup>r</sup>missa cum omnibus & singulis suis  
 prim<sup>o</sup> duram p<sup>d</sup> termino duodecim annorum  
 absq<sup>e</sup> legitimo impedimento molestacione  
 dictorum contradiccionum denegacionum vel di-  
 sturbacionum ipsius p<sup>d</sup> R. R. Executorum Ad-  
 ministratozum & Assigni suorum vel de vel p<sup>r</sup>  
 aliquas p<sup>r</sup>sonam vel personas quascunq<sup>e</sup>)  
 non tenuit sed infregit & illi ei hucusq<sup>e</sup>  
 tenere licet sepius requisit, R. omnino  
 contradixit unde dicit quod deterior est  
 & dampnum het ad valenciam centum  
 Librarum. Et inde p<sup>r</sup>duc Septam, R.

See the like President, Cl. Man. 196.

Note,

Covenant.



*Note*, That upon a Covenant for the enjoyment of any thing, when you assign a breach, you ought to shew for what you were disturbed, and how; for 'tis not sufficient to say *quod non potuit habere & gaudere, &c.* but yet you need not shew your Title specially, 8 Co. 91. 3 Cro. 914. *Yelv.* 30.

When you declare upon a Lease for Non-payment of Rent, you must recite the Lease over the *Reddendum*, and the Services, Duties and Heriots.

When for Breach of other Covenants, you must recite the Deed over the Covenant broken.

See *Breach assign' de denar' solvend' super annuitat', &c.* Co. Ent. 114. *Ash.* 154, 155. *Vidian.* 126. 142. *pro Gratuitate, &c.* Bro. Red. 144. 145.

*Ad Reddend' Comp', &c.* 1 Saund. 44.

*Ad denar' solvend' super Articul' Maritag',* Winch. 158. *Clif.* 212. 217.

*Pur non Payment de Rent,* 1 Saund. 230. 235. 2 Saund. 235. *Winch.* 137. *Vidian.* 128. 142, 143. *Clif.* 206. 210, 220. 2 Vent. 231. 2 Mod. Intr. 120, 201, &c.

### Covenant upon Deed Poll.

A. *A* Duper de B. Gen alias dicit  
(&c.) sum fuit ad respond C.  
D. Gen de placito quod teneat ei conven-  
tionem



tionem inter eos fact' secundum vim for. Covenant.  
mam & effectum cuiusdam Scripti inde  
inter eos facti, &c. Et unde (Ec.) die qd  
p quoddam Scriptum factum (tali die  
& anno) apud C. quod idem C. Sigillo  
p'dice N. signae hic in Cur' p'fert cu-  
jus dat' est eisdem die & anno testatur  
Quod cum, &c.

See Ash. 154. Hans. 73. Clif. 204. 215,  
216, 209, &c. 2 Vent. 97. Bro. Riot. 103.  
Winch. 154. Bro. Red. 144, 152. Sur Charter-  
party, 1 Bro. 126. Vidian. 129. Thomp. 102.  
Hans. 69. Bro. Red. 140. 159. Clif. 207. Lev.  
Ent. 34

## In Banco Regis.

## Upon Articles.

A. B. queri p' C. D. in custod' M'arr,  
de plito convento'd frace p eo  
videt quod cum p quosdam Articulos  
agreementi indentae & facte apud C. p'ri-  
mo die M. anno (Ec.) inter p'd N. p no-  
men, (Ec.) ex una parte & p'd C. D. per  
nomen, (Ec.) ex altera parte quorum al-  
teram partem Sigillo p'dice C. Sigillae  
gerend' dat' eisdem die & anno idem N.  
hic in Cur' p'fert p quos quidem Artic-  
los agreementi agreeae fuit inter dice N.  
& C. Executor' Administrator' & Assign'  
uos quod cum, (Ec.) Breach for Non-  
payment of Money — Et sic idem N.  
dic quod p'dice C. licet sepius requisit' &c. Conclusion.  
agreea-

**Covenant.** agreementum suum p̄dice Et quod per  
 W Articulus p̄dice agreeat fuit p̄ & inter di-  
 cas partes quod in respectu, (Ec. and so  
 recite the whole Covenant) non tenuit sed  
 infregit Et illud ei tenere, Ec. (ut in al.)

[ *Simile in Communi Banco super al  
 Articulos.*

**N.** **J** H. nup de, (Ec.) Neond alias dice,  
 (Ec.) lund fuit ad respondens f. G.  
 de pluro quod teneat ei conveni inter eos  
 face secundum vim forma & effectum quorum-  
 dam Articulorum Indentae inde inter eos  
 confect, Ec. Et unde idem f. p. C. S. Attor  
 lund die quod id p quosdam Articulos face  
 apud L. in Com p̄d (tali die & anno) inter  
 ipsos f. G. p nomen, (Ec.) ex una parte & p̄-  
 fae J. H. p nom, (Ec.) ex altera parte quo-  
 re altera parte Sigillo p̄dice J. H. Sig-  
 nae idem f. hic in Cur p̄fert cujus dat est  
 eisdem die & anno imprimis idem f. G. p  
 se Hered Executor & Administrator suis  
 convenit p̄misit & concessit cu p̄fae J. H.  
 Executor & Administrator suis p Artic-  
 los p̄d q̄d, (Ec.) & sic idem f. G. die quod  
 p̄dice J. H. licet sepius requisit conven-  
 to p̄d de eo q̄d (Ec.)

You may observe that the Declaration  
 must differ according to the Form of the  
 Articles, &c.

See *Super Artic' Indentat' Vidian.* 136. Bro.  
*Red.* 165. *Wimb.* 119. 158. 2 Bro. 54. Co. Ent.  
 110: 3 Brownl. 29.

By

By the Surviving Covenantees.

Covenant.

**A** B. nuper de, (Et.) alias dice, (Et.)  
 . sum fuit ad respond J. I. sed  
 J. I. iud de placito qd teneant eis con-  
 ventionem inc pdice A. B. & C. Hic ejus  
 ipsos J. I. sed & J. I. iud & quan-  
 dam Janam D. defunce nuper uxorem  
 dice J. I. sed secundum vim formam &  
 effectum quarundem Indentur inde face in-  
 ter pdice J. & J. & pdice A. & C. Hic  
 ejus, Et. Et unde iidem J. & J. p H. D.  
 Attorn suum dic quod cum p quandam  
 Indentur face, (Et.)

See *Winch. Ent.* 127. 132. 1 *Bro.* 132.  
*Hern.* 273.

*Simile simul cum al' qui est utlegat', Bro.*  
*Red.* 121.

By an Heir upon a Bargain and Sale.

**A** B. nuper de, (Et.) alias dice,  
 (Et.) sum fuit ad respondens C.  
 D. filio & Hered' C. D. defunce de plito  
 qd teneat ei conventio inter pstat' C. D.  
 pstat in vita sua & pstat A. & quendam  
 C. fratrem pdice A. modo defunce in vita  
 sua face secundum vim formam & effectum  
 quarundam Indentur inter pdice C. D.  
 pstat & pstat A. & C. confect & unde idem  
 C. D. per G. H. Attorn suum dic quod  
 cum, (Et. and so recite the Covenant to  
 the



**Covenant.** the Vendee and his Heirs, that the Vendor, &c. had a perfect Estate in Fee-simple (Breach, that they had no such Estate) — Et sic idem C. D. Filius dicit quod nec pater A. nec C. in vita pater C. nec pater A. post mortem ipsius C. licet sepius requisitus conveniens pater de eo quod (scilicet) modo & forma ut pater in eadem Indentura fuit recitatus & expressus pater C. pater in vita sua seu eidem C. D. Filius post mortem pater C. D. pater non tenuit sed infregit ac ille eis tenere contradixit & pater A. ille eidem C. D. filio adhuc tenere contradixit unde dicit quod deterioratus est & dampnum habet ad valentem 500 l. Et inde pater dicit &c.

See 2 Saund. 415. Co. Ent. III. Pro heredis super Indentura facta in Dem' ac Def. &c. Hern. 286. Pro heredis vers' heredis, Reg. Orig. 165.

### Upon a Bill of Agreement sealed.

**S**ecundum vim formam & effectum cuiusdam Bille inter eos confectae, &c. unde idem A. p B. Act' suum dicit quod cum per quandam Billam agreement huius & facta apud L. (tali die & anno) inter ipsum A. ex una parte & pater C. ex altera parte quam idem A. Sigillo pater C. Signillat' hic in Curia pater cuius dat' est eisdem die & anno conventum & agreeatum fuit quod, &c.

See Co. Ent. 113. 1 Mod. Intr. 129.

Upon

## Upon a Bargain and Sale.

Covenant.



**T**estatur quod idem A. p<sup>ro</sup> diversis  
Causis & Considerationibus in In-  
dentur p<sup>ro</sup> mentione & expressa & conces-  
set bargainasset & vendidisset & p<sup>er</sup> an-  
nem Indentur p<sup>ro</sup> seipso, &c.

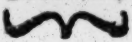
See *Hern.* 263. *Winch.* 122. *Rob.* 167. *Bro.*  
*Ad.* 128.

By an Executor upon a Grant of an An-  
nuity to the Testator.

**L** M. nup de R. Gen<sup>er</sup> alias, (&c.) fund  
suis ad respond<sup>um</sup> J. S. Ar & H.  
Ar ejus Executrici test<sup>is</sup> C. S. nup Ci-  
vis & Alderman de L. de plito quod tene-  
ant eis conventio inter p<sup>re</sup>dice C. & p<sup>re</sup>lae  
L. facce secundum vim formam & effectum  
quarundam Indentur inde inter eos con-  
tere, (&c.) Et unde, (&c.)—Breach for  
Non-payment of Annuity to Testator in  
vita sua Et sic iidem J. S. Ar. & H.  
hic, (&c.) & p<sup>re</sup>ferunt hic in Cur<sup>ia</sup> Literas  
Testarias p<sup>ro</sup> C. S. p<sup>er</sup> quas satis liquet  
hui<sup>us</sup> iplam H. fore Executric<sup>em</sup> Test<sup>is</sup>  
p<sup>re</sup>dice & inde here Administrat<sup>ionem</sup>, (&c.)

Profert Li-  
teras Testa-  
mentarias.

Pro Exec<sup>utoris</sup> super Indentur, *Bro. Met.* 98. Su-  
per script<sup>is</sup> agreant<sup>ur</sup> 2 *Ven.* 97. 1 *Sand.* 155. Pro  
Exec<sup>utoris</sup> vers<sup>us</sup> Assign<sup>atus</sup>, 1 *Bro.* 131. *Bro. Red.* 163.  
Simile vers<sup>us</sup> Lessee, *Clif.* 220. Pro Exec<sup>utoris</sup> vers<sup>us</sup>  
Exec<sup>utoris</sup>, 2 *Vent.* 51. Pro Exec<sup>utoris</sup> vers<sup>us</sup> Exec<sup>utoris</sup>, 1  
*Mod. Intr.* 121. Narr<sup>atione</sup>

**Covenant.** *Narr' port* upon Breach of the *Habend*  
 and Entry by another, where the De-  
 fendant had made a former Lease, and  
 Plaintiff could not quietly enjoy.

Former  
 Demise.

**II.** **A.** *B. ad respondens C. D. & R.*  
**A.** de p<sup>re</sup>ito quod teneat eis con-  
 ventum inter eos factam secundum b<sup>re</sup>vi-  
 formam & effectum quarundam Indentur-  
 tur inde inter eos confect & unde (Ec.)  
 (recite over the *Habendus*) put p eandem  
 Indenturam plenius apparet & iidem  
**C. & R.** in facto dicunt quod p<sup>re</sup>dicta  
 ante diem confectonis Indentur p<sup>re</sup>dicta  
 scit (tali die & anno) apud (Ec.) dimi-  
 sit cuidam **J. S.** p<sup>re</sup>dicta duo Cla cum p<sup>re</sup>dicta  
 habend eidem **J. S.** a (tali festo) usque  
 finem & terminum septem annorum ex-  
 tunc p<sup>re</sup> sequent & plenarie complens  
 iidem **C. & R.** ulterius dicunt qd ipsi iidem  
**C. & R.** post p<sup>re</sup>dicta festum, (Ec.) scit  
 qd ejusdem festi in eadem duo Cla cum  
 p<sup>re</sup>dicta (virtute dimissionis illius eis p<sup>re</sup>dicta  
 dictum **A.** in forma p<sup>re</sup>dicta face) intrave-  
 runt & fuerunt inde possessionae super  
 quorum quidem **C. & R.** possessionem inde  
 p<sup>re</sup>dicta **J. S.** postea scit (tal die & anno  
 supradice) in p<sup>re</sup>dicta duo Cla cum p<sup>re</sup>dicta  
 (clamando terminum suum p<sup>re</sup>dictum b<sup>re</sup>vi-  
 tute dimissionis p<sup>re</sup>dicta p<sup>re</sup>dicta **J. S.** in forma  
 p<sup>re</sup>dicta face) intravit ac ipsos **C. & R.** ab  
 inde totaliter expulit & amovit & fuit  
 adhuc est inde possessionae p<sup>re</sup> quod iidem  
**C. & R.** p<sup>re</sup>dicta duo Cla p<sup>re</sup>dicto festo, (Ec.)



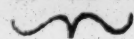
quod fuit (in tali anno) secundum formam  
effectum Indentur p̄dice here & tenere non  
potuerit sicq; p̄dictus A. conventionem p̄ced  
de eo quod ipsi iidem C. & D. herent &  
enerent sibi & Assignis suis p̄ced duo Cla  
um p̄tū a p̄dicto festo (sc. in tali anno  
supradicto) usq; finem p̄dice termini sep  
tem annorū. secundum formam & effectum  
Indentur p̄dice licet sepius requisit non  
venit sed infregit ac illi eis tenere con  
tradixit & adhuc contradic unde (sc.  
(sc. in al.)

See for Quiet Enjoyment, *Rob.* 171.  
*Winch* 112, 118, 120, 129, 132, 159. *1 Bro.*  
*145. Bro. Red.* 148, 162.

Covenant *ads' Administratric'* upon the  
*Habendum.*

**A.** B. nup de C. in Cond D. Reom  
fuit ad respondendū H. C.  
Administratric' bonorū & catalloꝝ que  
fuerūt H. C. qui obiit intestat &c. de p̄lito  
quod teneat ei conventionem inter p̄lat H.  
cum vixit & p̄dice A. iuxta vim formam  
& effectum quarundam Indentur inter  
eos confect &c. Et unde (sc.) patet p̄ ean  
dem Indentur plenius apparet Et eadem  
die quod p̄dice H. in vita sua ac ipsa  
post mortem ipsius H. (cui Admini  
stratio omnium & singuloꝝ bonorū & catal  
loꝝ que fuerūt p̄dice H. tempore mortis sue  
I. B. (sc. tali die & anno) apud P.  
post mortem p̄ced' H. commissa fuit) per  
formed

Covenant.



formed the Covenants *ex parte* *pdice* & *pimplens* (&c.) *ptestando* that Defendant non *pimplebit*, &c. Breach, that (&c.) *fic* *pdice* A. *licet* *sepius* *requisie* *conven* *pdice* de eo quod *pdice* R. C. Executor Adm & Assigni sui herent & tenerent & *ner* & *Cent* *pdia* cum *ptin* a (tali *sto* &c.) usq; finem *pdia* termini 21 annorum extunc *pr* sequen & plenai complem juxta *fozm* *dimission* *pred* ill eidem & non tenuit sed infregit ac ill eidem & tenere contradixit & adhuc contradic und die quod deteriorat est & dampnu habet ad valenc 200 l. Et inde *pdue* Sextam & Et *pfert* hic in Cur Literas Administratozias *pdia* Official que Commissioni Administratoz *pdia* in forma *pdia* testatur quarum *dac* est *pdia* decimo die Anno Domi 1699.

Profert Li-  
teras Ad-  
ministrat'.

See *pro Adm' vers' Matrem Infantis*, Ro 171.

*Pro Adm' del Assignee del Lessee la Roign* Winch 137.

*Pro Adm' & Viro & Ux' Coadm' vers' Exec'*, 1 Bro. 128. *Vide* Co. Ent. 114. Ra 136. 1 Mo. Intr. 105.

Note, Upon a Count by an Assignee for breach of Covenant, if it appear in the Count that he is Assignee, no matter whether you said in the Beginning that he was Assignee, 2 Cro. 823.

See Presidents *pro Assignee*, Winch. Ent 122. 1 Saund. 230, 261. 1 Mo. Intr. 132. 2 Mo. Intr. 201. 2 Brown 132.

## Of Declarations.

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Covenant.

*Pro Assign' versus Exec'*, Winch Entr. 112. Vid. 119.

*Pro Assignee del Assignee vers' Exec' del Lessee*, Ven. 117.

*Exec' versus Assign'*, 1 Bro. 131. Bro. Red. 163.

*Versus Exec' del Assign' de Lessee*, 1 Saund. 104.

*Versus Assign' del Exec' del Lessee*, 2 Vent. 228.

Upon a Writing of Agreement about rebuilding a Stable into a Mansion-House, and the Defendant took the said Writing from the Plaintiff after Sealing thereof.

**W** T. vers' J. H. Gen' qd cum . nono die Nobemb Anno Dom (H.) p quoddam Scriptu' adtunc fact' apud Civic Ebor p'dict' inc eundem J. H. ex una parte & p'dict' W. T. ex altera parte cujus hac est eisdem die & anno p'dict' J. p'misit & agreebit ad & cum p're fac W. quod ipse idem J. faceret vel fieri causaret de Stabulo & Tabulae (Anglice Loft) adtunc in possessione p'fac W. unam Domum Mansionalem inde videlicet quatuor Cameras cum Tabulatis (Anglice Planchents) de asserib' in eisdem & unam Cameram cum Camino (Anglice Chimney) in eadem & Delutaret (Anglice Plaster) Muros inde ac Intertignaret (Anglice Space-Beam) rectum ac faceret

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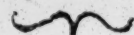
enilibet



Covenant.

cuilibet Camere und Fenestram Inbitria  
 (Anglice Glazed) pr' Vico & und Fene-  
 stram Shopia (Anglice Shop-window)  
 in Shopa sive Cellar subter eandem (An-  
 glice underneath) erga Vicum & si plac  
 M. heret partitionem in Shopa cum M  
 seribus (Anglice Boards) illud facum  
 esset quodq partitiones in Cameris essent  
 fact' cum asseribus & paviamentu in Cel-  
 lar' lebellat' esset (Anglice levelled over  
 cum paviamento omnia que quidem pre-  
 missa essent fact' ad onera & custag' pre-  
 J. H. ad vel ante quintu diem Maij pre-  
 sequen' dar ejusdem Scripti & ab illo tem-  
 poze p'fac M. heret dictam Domu p sep-  
 tem annis si status p'ed J. tam diu con-  
 tinuaret & duraret ac idem M. solberet  
 p'fac J. & Assign' suis annuat' reddi-  
 duodecim Lib'ard' legalis Monet Angli-  
 p quatuor quarterial' solutiones in anno  
 durant' p'ed septem annis & p'ed J. re-  
 paret p'missa (Vitriaton' Fenestraru ex-  
 cepe) ac eciam p'dia' J. faceret Caminu  
 in Cellar' ascendere (Anglice go in) in  
 Caminu Camere put p Scriptu Agree-  
 menti p'ed Sigillo ipsius J. Sigilla-  
 (quod quidem Scriptu idem J. post sigil-  
 lacon' & deliberacon' inde ab eodem M. ad-  
 tunc & ibidem cepit & continue abinde huc  
 usq' in manibus & custod' ipsius J. deti-  
 nuit & adhuc detinet) plenius liquet &  
 apparet Et idem M. in facto dicit quod  
 p'ed J. non obserbabit p'formabit pimple-  
 bit seu custodibit aliqua convencon' Arti-  
 cul' seu Agreeamenti in Scripto p'ed sepius  
 specificat' ex parte ipsius J. obserband  
 p'formand

prout per  
 scriptum,  
 &c. which  
 the Defen-  
 dant after  
 Sealing,  
 took and  
 detained.



reformand pimplens & custodiend secund  
formam & effectū ejusdem Scripti quod-  
que p̄d J. ad aliquod tempus post con-  
fectionem Scripti p̄d non fecit nec fieri cau-  
sabit de p̄d Stabulo & Tabulae supius  
mentionae Domū Manōnalem nec qua-  
tuor Cameras cum Tubulae (Anglice  
Planchents) de Asseribus nec Caminū in  
aliquibus inde, nec dilutabit muros nec  
intertignabit (Anglice Space-beam'd)  
tectum nec fecit unū fenestrā Shopiae in  
Shopa nec fecit partiōnem in Shopa  
cum asseribus licet idem J. ad illud fa-  
ciendū p̄ ipsum W. ad tunc & ibidem re-  
quisie fuit quodq; p̄d J. non fecit ali-  
quas partiōnes in Cameris cum asseri-  
bus nec fecit paviamentū in Cellar lebel-  
lae & idem W. ulterius in facto dicit quod  
p̄d J. non fecit Caminū in Cellar p̄d  
ascendere in Caminū Camere superius  
mentionae secundū formā & effectū Scripti  
Agreementi p̄d & sic idem W. dicit quod  
p̄d J. licet sepius requisie &c. conven-  
tionem suam p̄d cum eodem W. in for-  
ma p̄d non tenuit sed infregit ac illi ei  
implere custodire & tenere idem J. huc-  
usq; omnino contradixit & adhuc contradic-  
tū idem W. dicit quod ipse deteriorae est  
& dampnū hēt ad valentē centū Librarū  
Et inde pduc Sectam; &c.

See Bro. Red. 152.

Ubi dimissio per accidens combasta fuit, Bro.  
Red. 145.

Covenant super Literam Attorn, 1 Bro. 133.  
Hans. 71.

U 3

Note,

Covenant.



*Note*, If there is only a Hand to a Writing, and not a Seal, Covenant lies not, but Case upon Agreement, and declare, That in consideration the Plaintiff had promised to perform the Agreement on his part, the Defendant promised to perform on his part, &c. and then assign breach, &c.

1. Where in a Covenant, the latter words being general, shall be restrained and expounded by the former which were special, *Vide Saund. Rep. 1. part fol. 59, 60.*

2. Where in a Covenant, the former general Words shall be restrained and expounded by the latter special words, *Idem 59.*

3. In Covenant, the former general words that the original Lease is indefeasible, shall not be restrained by the latter words, that the Assignee *haberet, teneret & gauderet*, &c. without any Lett, &c. of the Assignor, *Idem 60.*

4. A particular Covenant in Deed, may restrain a general Covenant in Law, *Ibid.*

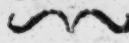
5. Covenant that he was seized in Fee (notwithstanding any Act done) and that the Lands were of the yearly Value of 200 there the words Notwithstanding, &c. may not be applied to the Covenant concerning the Value, *Ibid.*

6. When a Man covenants *cum altero & alteris* of the Covenantees, yet if their Estate be joint, the Action ought to be brought by both the Covenantees or the Survivor of them, *Idem 153, 155.*

7. But if a Man covenant with two *cum eorum altero*, that he will render an Ac

coun





ount to the Executors of the Party dying, and one of the Covenantes dies, the Covenant is suable by his Executors, *Idem*

8. What Action of Covenant lies for an Assignee of a Reversion at Common Law, *Idem* 238, 239.

9. Action of Covenant by an Assignee of a Reversion against the Lessee for Rent, need not be laid in the County where the Land lies, *Idem* 239, 240, 241.

10. An Action lies for a Lessor or his Assignee against the Lessee, upon his Covenant for payment of Rent, notwithstanding that the Lessor or his Assignee had accepted Rent before of the Assignee of the first Lessee; for Covenant is not like an action of Debt for Rent, *Idem* 240, 241.

11. If by a Deed sealed by both Parties, it is agreed that the Defendant shall give the Plaintiff such a Sum for all his Lands in the County. It will amount to a Covenant on the part of the Plaintiff to convey the Land, *Idem* 320.

12. Where Covenant lies upon the Word *Demise*, and where not, *Idem* 321, 322.

13. Where Covenant lies for *Misfeasance*, but not for *Nonfeasance*, *Idem* 322, 323.

14. If a Man by Deed grant a Watercourse, and stop it, the Grantee may have an Action of Covenant, *Idem* 322.

15. If a Lease be made of a House and Estovers, and the Lessee destroy all the Wood,

Covenant. Wood, the Lessor may have an Action of Covenant, *Idem* 322.

16. If a Lease be made of a House and piece of Land (except the Land on which the Pump is) with the use of the said Pump, the Lessee may repair the Pump; but no Action of Covenant lies against the Lessor, for not repairing it, *Idem* 322, 323.

17. If one of the Parties covenant to assure Lands, and the other in consideration of the same Covenant performed, covenant to pay a Sum of Money, he is not obliged to pay the Money until the Lands be assured, — But it is otherwise if the Covenant had been in consideration of the Covenant to be performed, *Saunders Rep. 2d part, pag. 156.*

18. Where in mutual Covenants the Words, *In Consideration of the Performance thereof*, shall make a Condition precedent, and where not, *Idem* 156, 157.

19. If the Covenant of the one Part be negative, and the affirmative Covenant of the other Part be in consideration of the Performance thereof; although the negative Covenant is broken, yet the affirmative Covenant ought to be performed, *Idem* 156, 157.

20. A negative Covenant is not said to be performed, until it become impossible to break it, *Ibid.*

21. In Covenant upon a Warranty of Lands for years, the Plaintiff ought to shew what Estate or Right he that entred into the Lands had at the time of his Entry; and

## Of Declarations.

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is not sufficient to aver that he had a good **Covenant**, Title, *Idem* 178, 179, 180, 181.

22. What Warranty shall be taken only for a Covenant, *Idem* 180.

23. An Action of Covenant lies against a Woman upon a Warranty by her and her Husband annexed to an Estate for years in a Fine, *Idem ib.*

24. Where by the Grant of a Reversion, the Rent reserved upon a Lease for years, is well transferred to the Grantee; the Law transfers also to him the Covenant of the Lease for the payment of it, as incident to the Rent, *Idem* 371.

25. If in an Action of Covenant, any Breaches are well assigned, and others ill, and the Defendant demurs to the whole Declaration, the Plaintiff shall have Judgment for those Breaches which are well assigned, and shall be barred for the residue, *Idem* 380.

See more in the *Method of Pleading*, alias 3d. part of *Instructor Clericalis*.

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## D E B T.

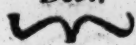
**A**N Action of Debt is sometimes grounded upon an Act of Parliament, Judgment, Statute or Recognizance.

2. Sometimes upon a Writing, as Obligation, Bill, Covenant, or other Specialty.

3. Some-



Debt.



3. Sometimes without Writing, as upon Arbitrement, Escape, Receipt, Contract by Word of Mouth, and the like.

*Glouc. c. 18.* If the Debt be above 40 s. the Action will lie in the *Queen's Bench*, *Common Pleas*, or others Courts that have Jurisdiction.

But if the Debt be under 40 s. the proper Courts are, the County or Hundred Courts, or Court Baron; and in the City of *London* and Liberties thereof, between Parties there living, if it be not grounded on a Real Contract, the Party is bound by a Special Law to Sue for it in the Court of Requests in the said City; for if he Sue for such a Debt in any other Court, he shall the Defendant Costs, and yet shall recover no Costs against the Defendant, *F. N. B. 119. 3 Jac. c. 15.*

Quære of this.

But note, the force of the Stat. of *Glouc.* is avoided, by joynning two Debts for diverse Contracts together in one Writ, *Crompt. Jur. 101.* So that they amount to above 40 s.

By the Creditor himself.

1. This Action must be brought by, and in the name of the Party to whom the Debt is due, if he be living.

By his Executors or Administrators. Admin' duran' minoritate.

2. After his Death his Executors or Administrators must bring the Action; and if the Executor be within Age, then the Administrator, during such Executor's Nonage, must bring the Action.

By the Surviving Executors.

3. If one or more of the Executors (who have taken upon them the Executorship) die, then the Survivor or Survivors must bring the Action.

4. An

## Of Declarations.

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Debt.

By the Executor of the Surviving Executor.

By the Executor of an Executor.

By the Administrator de bonis non.

By the Executor of a Bishop, &c.

By Successor of a Body Politick.

Against the Debtor himself.

Against the Executor.

3.

If

4.

And

the

last

Survivor

must

have

it.

5.

If

there

be

but

one

Executor,

and

he

dies

after

Acceptance,

the

Executor

of

that

Executor

shall

have

an

Action,

and

so

ad

in

finem.

6.

If

an

Executor

die

Intestate,

the

Ad

ministrator

de

Bonis

non

Administratis

must

have

the

Action,

Dyer

24.

471.

3

Cro.

9.

An

Heir,

as

such,

cannot

have

this

Action,

but

as

an

Executor,

F.N.B.120.

7.

If

the

Debt

was

due

to

a

Bishop,

Par

son,

Vicar,

Master

of

an

Hospital,

or

the

like;

after

his

Death,

his

Executors

or

Administrators,

and

not

his

Successors

shall

have

this

Action.

8.

But

if

it

was

due

to

a

Body

Politick,

as

to

a

Mayor

and

Commonalty,

Dean

and

Chapter,

or

the

like,

in

their

Politick

Capacity;

there

the

Successor,

not

the

Executor,

shall

have

it,

4

Co.

65.

F.N.B.120.

4

Ed.

2.

9.

Against

whom

the

Action

must

be

brought.

1.

It

must

be

brought

against

the

Party

that

originally

owed

the

Debt,

if

he

be

living.

2.

After

his

Death,

against

his

Executor,

if

he

made

any)

that

hath

taken

upon

him

the

Executorship.

3.

If

4.

And

the

last

Survivor

must

have

it.

Debt.

Against the  
Admini-  
strator.Against the  
Ordinary.

3. If no Executor, then against the Administrator appointed by the Ordinary.

4. If none appointed by the Ordinary, then against the Ordinary himself; or if he die possessed of the Goods, then against the Executor of the Ordinary.

Against the  
Executor  
of an Ex-  
ecutor.

5. And if an Executor die after he hath accepted the Administration, then against the Executor of an Executor from time to time, *ad infinitum*, if any such made.

Against  
Admini-  
strator *de*  
*bonis non*.

6. But if no such Executor made, then against the Administrator *de bonis non Administratis*.

Against  
Admini-  
strator of  
an Admini-  
strator.  
Quære of  
this.

7. And if the Administrator (of the first Intestate) die Intestate, then against the Administrator of that Administrator, being Administrator *de bonis non Administratis*, but not against the Executor of an Administrator, for the Debt of the Intestate, 5 Co. 9. Dyer 112. 160, 174, 271. F. N. B. 120. Westm. 2. cap. 19.

Nor against an Executor or Administrator of a Lessee for Years for Rent, when the Lessee or his Executors or Administrators have assigned over their whole Term 3 Co. 23.

Heir.

It lieth against an Heir bound by the Deed of his Ancestor, if the Executors have not sufficient; but *nil per discensum* is a good Plea, if he alien the Assets before Action, unless it be fraudulent to deceive Creditors, 5 Co. 60.



## Of Declarations.

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The Writ shall be in the *Debet* and *Detinet* for Money due to a Man in his own Right; but if it be brought by or against Executors, there it shall be in the *Detinet* only, 5 Co. 31. 19 H. 8. 8.

*Debt.*  
*Debet & detinet.*  
*Detinet only.*

It lies not against Executors upon a simple Contract made by the Testator.

Upon a Specialty, if Money be due, an Action of Debt only lies.

If a Man owe another 10 l. and give a Note of his Hand for it upon a *Mutuuatus*; yet herein the Defendant may wage his Law; but for this an Action of Case lies also, and in that the Defendant cannot wage his Law.

But properly an Action of Debt doth lie upon a perfect Contract in Law between the Parties; for generally where the Law directs a certain Action, there an Action of the Case is not to be brought, *Contract Regist*, 104.

Upon a single Bill to pay Money at several Days, this Action may not be brought till all the Days are past; neither upon a lease of personal Things rendering Rent at several Days.

But if it be by Recognizance, Special Condition of an Obligation, Covenant, or the Reservation of Rent upon a Lease made of a Real Thing, it is otherwise.

So an Action of the Case upon promises to pay at several Times, will lie upon every Failure, 4 Co. 94. *Dyer* 313. *Co. Lit.* 292.

If a Woman Sole be indebted, and then take a Husband, it is now become the Debt of the Husband and Wife, and the Wife ought

**Debt.** ought to be sued for this Debt, together with the Husband; and if the Husband die whereby the Action is abated, yet the Wife may be sued again for this Debt, *Pract. Reg. 105.*

But if the Woman die, the Man is not liable after, unless there be a Judgment against them both during the Marriage; if there be, he must satisfy it.

An Action of Debt doth lie against the Husband for Goods which were delivered as sold unto the Wife, because the Law doth intend that they were employed and came to the use of the Husband, and the Husband and Wife are but one Person. *Pract. Reg. 102.*

If a Feme Sole have owing 100 l. b. Bond, and Marries and dies, the Husband must take out Administration of the Goods of his Wife, if he intend to recover.

**Infant.**

An Infant is liable to pay for his Mead Drink, Cloaths, Physick, Teaching and other necessities; but if he enter into Bond for it, or come to an Account, an Action of Debt doth not lie against upon the Account stated, and he may avoid the Bond by pleading *infra ætatem*, 18 E. 4.

It lies upon a Judgment obtained in any Court of Record.

It lies for an Amerciament in a Court Baron.

It lies against a Sheriff for Monies levied by virtue of a *Fieri Fac.*

## Of Declarations.

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Debr.

It lies against a Gaoler or Keeper of a Prison for suffering a Prisoner in Execution, to escape, but not against his Heir, *Dyer 322.*

It lies upon an *Emisset* for Goods sold and delivered, but herein the Defendant may wage his Law; yet in an Action of the Case brought for them, he cannot.

It lies against a Man upon the *Stat. 8. Eliz. cap. 2.* for arresting, or causing one to be arrested in another Mans name without his consent.

It lies for a Parson against a Parishioner for not setting out Tythes, wherein the Plaintiff shall recover the treble Value, by *Stat. 2. Ed. 6. cap. 13.*

If one deliver Goods to a third Person for my use, I may either have an Action of Debt or Account for them at my Election.

It lies against a Hundred for a Robbery, *17 Eliz. 13.*

If an Attorney suffer another to follow any matter in his Name, he forfeits 20*l.* and the Party grieved shall have Debt, per *fac. cap. 7.*

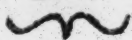
And in many other Cases it lies, for which see *Pract. Reg. Survey by Gliffon and Gulston, Compleat Solicitor, &c. and Townshend's Tables.*

See the Forms of the *Queen's Bench* and *Common Pleas* more particularly at the end of this Head.

Debt



Debr.



Debt upon several Bonds.

*In Banco Regi.**Vide Debt upon Single Bond in the First Part.*

B. R.

Note ff.

**A**. queritur de C. D. alias dice C. D. de Newark su  
Trent in Com<sup>o</sup> Note Gen<sup>o</sup> alias dice  
D. de London Gen<sup>o</sup> in Custos Mare, &  
de plito quod reddat ei quadzinge  
bras legalis Monete Anglie quas ei de  
bet & injuste detinet pro eo videt quod  
cum p<sup>re</sup>dicte C. (tali die & anno) apud  
N. p<sup>re</sup>dicte in Com<sup>o</sup> p<sup>re</sup>dicte per quoddam  
(1.) Scriptum suum Obligatorium Sigill<sup>o</sup>  
Per Scrip<sup>o</sup> ipsius C. Sigillae Cur<sup>ie</sup> dice Domini  
Cur<sup>ie</sup> ostens. Regine nunc hic ostens<sup>o</sup> cujus dat<sup>o</sup> est ei  
dem die & anno cogn<sup>o</sup> se teneri & firmit<sup>er</sup>  
obligari p<sup>re</sup>fat<sup>o</sup> N. in centum & quinquag<sup>in</sup>  
gine libris p<sup>re</sup>dictarum quadzingerarum  
librarum parcell<sup>is</sup> solvend<sup>o</sup> eidem N. cu  
inde requisit<sup>o</sup> esset Cumq<sup>ue</sup>; etiam idem  
postea scit<sup>o</sup> (tali die & anno) apud  
p<sup>re</sup>dicte in Com<sup>o</sup> p<sup>re</sup>dicte p<sup>er</sup> quoddam aliud scrip  
(2.) tum suum obligatorium Sigillo ipsius  
Simil<sup>o</sup>. C. filiter Sigillae Cur<sup>ie</sup> dice Domini  
Regine nunc hic ostens<sup>o</sup> cujus dat<sup>o</sup> est ei  
dem die & anno ult<sup>o</sup> sup<sup>ra</sup>dictis cogn<sup>o</sup>  
teneri & firmit<sup>er</sup> obligari p<sup>re</sup>fat<sup>o</sup> N. in ce  
tum & quinquag<sup>in</sup> libris p<sup>re</sup>dicte quadzingerarum  
librarum filiter parcell<sup>is</sup> solvend<sup>o</sup> eidem

## Of Declarations.

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Debt:

idem A. cum inde similie esset requisie  
sumq; etiam idem C. postea scilicet (tali  
die & anno) apud R. pres in Com pres p  
modum aliud scriptum suum obligatoriu  
sigillo ipsius C. similiter sigillae Cuiq;  
die Dñe Regine nunc hic ostens cuius  
ae est eidem die & anno ule mentionae  
qd se teneri & similiter obligari p̄fac  
A. in centum Libris solvend eidem A.  
um inde similiter requisie esset pres ta  
men C. licet sepius requisie &c. pres se  
eral denar summas in toto attingend ad  
dia quadringentas libras p̄fac A. non  
um solvit sed illi ei hucusq; solvere omnino  
contradixit & adhuc contradic ad dam  
nd ipsius A. vigine librarum Et inde  
duc Sextam, &c.

(3.)

Simul?

See *sur septem obl'*, Bro. Red. 228. Reads  
ec. 234.

See Presidents; Pro 3 Viris & un' Ux' sur  
fait al 2 & le Feme vers' Exec' Exec', Co.  
nt. 150.

arr' in Debito ads' Executor' sur obl.

Verb ff. **A**. B. Executor? Testi & ul- B. R.  
time voluntatis C. D. de-  
ma' queritur de W. C. alias die' (Fc.)  
custod Mari Fc. de plito quod reddat  
quinguenta Libras quas ei iniuste  
tinet p eo videlt quod cum pred' W.  
tali die & anno) apud Verb in Cond  
ed p quoddam scriptum suum obliga- Script'  
pium Sigillo ipsius W. Sigillae Cui- ostens'  
X que Cur'

Script'  
ostens'  
Cux'~

Debt.

que Dñe Regine hic ostens cujus dñe eisdem die & anno cogit se teneri & firmiter obligari p̄fac C. in vita sua in p̄d quinquagine Libe solvend eidem C. vel Executoribus suis cum inde requisit esset p̄d tamen M. licet sepius requisit &c. p̄d quinquagine Libe p̄fac C. in vita sua seu p̄d A. post ipsius C. mortem nondum solvit sed ill p̄fac C. in vita sua & eidem A. post ipsius C. mortem hucusq; solvere omnino contradixit & adhuc contradic ac iniuste detinet ad dampnum ipsius A. vigine Librarum Et in retardationem Executionis Testi p̄d Et inde pduc Bectam, &c. Et p̄fert hic in Cuiusdem A. literas Testamentarias p̄d & p quas satis liquet Cui hic ipsum A. Executori Testamenti illius Et inde hre Administration &c.

Profert Literas Testament.

*Pro Exec' sur obl', Co. Entr. 139, 145, 246*

*Pro Exec' superviv' sur obl' fait al 2. Ral*

323.

*Pro Viro & Ux' Exec', Hansf. 86.*

*Pro Exec' simulcum 2 aliis Coexec' Thomp*

143.

*Pro Exec' versus Exec' sur obl' Winch Entr*

168, 296, 307. Bro. Red. 175. Bro. Vad

151, 210.

*Pro Exec' versus Adm'. Hansf. 87. 1 Mo*

Intr. 157.

*Pro Exec' Exec', Bro. Red. 194.*

*Simile versus Hered', Clif. 242.*

For one Exec' against five Executors & obl', whereof one is Outlaw'd. Bro. Vad. 17

Narr



*Narr' in Debito vers' Executor' sur obl.* Debt.

**T** S. queritur de R. H. Executor B. R. Testi & Alit Voluntatis J. H. defunct' alias nup dia' J. H. de (Ec.) in custod Mari Ec. de placito quod reddat ei quadragine Libras legalis Monete Anglie quas ei injuste detinet p eo videlicet quod cum pzed Testator in vita sua scilicet tali die & anno) apud W. in Comd pzed quoddam scriptum suum obligatorium Sigill ipsius Testator in vita sua sigillae Curia die Dñe Regine nunc hic ostensa cujus dat est eisdem die & anno cognoscitur & firmiter obligari pfac C. in pzed quadragine libe solvendi eidem C. cum inde requisitus esset pzed tamen Testator in vita sua Et pzed R. post ipsius Testator mortem licet sepius requisitus Ec. pzed quadragine libe pfac C. nondum solverit nec aliter solvit sed illi ei hucusque solvere pzed Testator in vita sua & pzed R. post ipsius testator mortem omnino contradixit & pzed R. adhuc contradic & injuste detinet ad dampnum ipsius C. decem libras cum Et inde pduc Secam, Ec.

*Versus Exec' sur obl.*, Wi. Entr. 229, 266. Hanf. 87. Rob. 208. 1 Mo. Intr. 168. Cl. Man. 204.

*Vers' Exec' sur 2 obl.* Bro. Vad. 180. Bro. Met. 143.

Debr.

*Narr' in Debito pro Administrator'  
sur obl'.*

B. R.

**R.** H. Administrator omnium & singulorum bonorum & catallorum Jurium & Creditorum que fuerunt C. H. Gen' defuncti tempore mortis sue qui obiit intestatus &c. queritur de S. G. alias dice (&c.) in custodiam H. (&c.) de plito quod reddat ei ducens Libras legalis Monete Anglie quas ei iniuste detinet p' eo videlicet quod cum p'ed' S. (tali die & anno) apud L. in Comp' p' quoddam scriptum suum obligatozium Sigillo ipsius S. sigillat' Cur' que dicit' Dne Regine nunc hic ostens' cujus dat' est eisdem die & anno cogn' se teneri & firmiter obligari p'fac' C. in vita sua in p'ed' ducens libris solvend' eidem C. cum inde requisit' esset p'ed' tamen S. licet sepius requisit' &c. p'ed' ducens libras p'fac' C. in vita sua seu p'fac' R. post ipsius M. mortem Cui quidem R. Administrator omnium & singulorum bonorum & Catallorum Jurium & Creditorum que fuerunt p'ed' C. tempore mortis sue p' C. D. Regum Doctorem [&c. as in the Letters of Administration] tali die & anno apud L. p'ed' commissa fuit nondum solvit sed ill' p'fac' C. in vita sua ac p'fac' R. post ipsius C. mortem sol'ge' omnino contraxit & ill' eidem R. adhuc solver' contraxit ac iniuste detin' ad dampnum ipsius R. vigine Librarum & in retardatione executionis Administrator p'ed' Et inde p'duc'

Admini-  
strat' com-  
miss'.

# Of Declarations.

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Debt.

Profert Li-  
teras.

produc Secam, &c. Et pfert hic in Cur  
idem A. Literas Administrator pzetp  
Administration pzetp in forma pzetp com-  
missa testantur, &c.

Pro Adm' sur obl', 1 Mo. Intr. 161. Cl.  
Man. 205, 271.

Pro Adm' sur obl' vers' un' joint Adm',  
1 Saund. 100.

Pro Adm' vers' Adm' sur obl', Winch Ent.  
177.

Pro Adm' de bonis non. 1 Bro. 160.

## Versus Administrator' sur obl'.

A. B. queritur de C. D. Admini- B. R.  
strator omnium & singulorum bono-  
rum & catallorum iurium & creditorum que  
fuerunt P. D. defuncti tempore mortis sue  
qui obiit intestatus ut dicitur alias nup die  
(&c.) in custodiam Marti, &c. de plito quod  
reddat ei centum Libras legalis Monete  
Anglie quas ei iniuste detinet pro eo videlicet  
quod cum pzetp P. in vita sua sciret (tali  
die & anno) apud B. in Comu pzetp p  
quoddam scriptum suum obligatorium. Si-  
gillo ipsius P. in vita sua sigillat Cur  
die Dne Regine nunc hic ostensum cujus dat  
est eisdem die & anno cogit se teneri & fir-  
miter obligari pzetp A. in pzetp centum Li-  
bris solvend' eidem A. cum inde requisie  
esset pzetp tamen P. in vita sua & pzetp C. post  
ipsius P. mortem licet sepius requisie &c.  
pzetp centum Libras pzetp A. nondum solver  
nec coram alter solvit sed illi ei pzetp P. in vita  
sua



Debr.

~ sua & p<sup>o</sup> C. post ipsius D. mortem hucusque  
 solvere omnino contradixit Et p<sup>o</sup> C. illi  
 eidem A. adhuc solvere contradicere ac iniuste  
 detinet ad dampnum ipsius A. vigine  
 Librarum Et inde pduc Sec &c.

*Vers' Adm' sur obl', Winch Entr. 188, 257.  
 Bro. Vad. 152. Cl. Aff. 413.*

*Vers' Adm' simulcum Coadm' qui Ut<sup>r</sup> exist<sup>r</sup>  
 1 Bro. 164.*

*Vers' Adm' Adm' sur Bill'. Bro. Red. 173.*

*Vers' Admin' de bonis non, &c. sur obl.*

B. R.

**J** P. queritur de W. C. Administra-  
 tor bonorum & catallorum que fuerunt  
 D. tempore mortis sue qui obiit intestatus  
 alias nup die (&c.) non administrat  
 S. H. defuncti Administratorem bonorum  
 & catallorum que fuerunt p<sup>o</sup> G. H. in Custodia  
 Marci &c. de p<sup>o</sup> lito quod reddat ei nona-  
 gine Libras legalis Monete Anglie quas  
 ei iniuste detinet p<sup>o</sup> eo videlicet quod cum p<sup>o</sup>  
 G. in vita sua sciret (tali die & anno) apud  
 D. in Com<sup>o</sup> p<sup>o</sup> p<sup>o</sup> quoddam scriptum suum  
 obligatorium Sigillo ipsius G. in vita  
 sua sigillat Curia die D<sup>o</sup>ne Regine nunc  
 hic ostens cujus dat<sup>r</sup> est eidem die & anno  
 cogit se teneri & firmiter obligari p<sup>o</sup> fac  
 In p<sup>o</sup> p<sup>o</sup> nonagine libris solvend<sup>r</sup> eidem  
 cum inde requisit<sup>r</sup> esset p<sup>o</sup> p<sup>o</sup> tamen G. in  
 vita sua ac p<sup>o</sup> p<sup>o</sup> S. in vita sua post ipsius  
 G. mortem ac p<sup>o</sup> p<sup>o</sup> W. post mortem p<sup>o</sup>  
 dictorum G. & S. licet sepius requisit<sup>r</sup> &  
 p<sup>o</sup> p<sup>o</sup> nonagine Libras p<sup>o</sup> fac J. nondum sol-

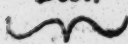
he nec eorū aliquis solvit sed illi ei hucusq;  
solvere omnino contradixit ac illi idem M.  
eodem J. solvere adhuc contradicere ac injuste  
detinet ad dampnū ipsius J. decem Li-  
brarū Et inde pducere Sextam &c.

See Cl. Man. 207. Bro. Vad. 154.

*Pro Administr' versus Hæredem super  
Script' Obl'.*

London N. **A.** S. Vid. Administratrix B. R.  
omniū & singulorū bo-  
norū & catalloz juriū & creditoz que fue-  
runt T. S. nup. Viri sui defuncti tempore  
mortis sue qui obiit intestatus queritur de  
R. B. Gen. filio & Hered. R. B. defuncti  
nup. dicit R. B. (&c.) in custod. Marii &c.  
de pito quod reddat ei centū libras lega-  
lis Monete Anglie quas ei injuste detinet  
pro eo videt quod cum pater R. B. pater  
pater R. B. modo defunctus (cujus Heres  
ipse idem R. modo defendens est) in vita  
sua scilicet decimo die Augusti Anno (&c.)  
apud London pater videt in Parochia  
Beate Marie de Arcubus in Warda de  
Cheap p quoddam scriptū summ obligato-  
riū Sigillo ipsius R. Patris in vita  
sua sigillat Curieq; die Dñe Regine nunc  
hic ostens cujus dat est eidem die & anno  
cognovit se teneri & firmiter obligari  
pro T. S. in vita sua in pater centum  
libris solvendis eidem T. S. vel Admini-  
stratoribus suis cum inde requirere esset  
Et ad eandem solutionem bene & fideliter  
faciend

Debt.



Commissi-  
on' del Ad-  
ministr' per  
Commissar'  
del Dean  
& Chapter  
de Canter-  
bury sede  
Archiep'  
vacante.

faciens pzed' R. Pater in vita sua obli-  
gavit se & Heredes suos p idem scriptum  
obligatorium pdictus tamen R. Pater in  
vita sua ac pzed' R. Filius Heres pzed'  
R. Patris post mortem ipsius R. Patris  
licet sepius requisit, &c. pzed' centum  
libras pfac T. S. in vita sua seu pfac  
A. S. post ipsius T. S. mortem [Cui-  
quidem A. Administratio omnium & sin-  
gulozum bonozum & catallozum iurium  
& creditozum que fuer' pzed' T. S. tem-  
pore mortis sue post ipsius T. mortem  
scilicet vicesimo nono die Decemb'is anno  
(&c.) apud London' pzed' in Parochia  
& Warda pzed' p J. W. Militem & Re-  
gum Doctozem Civitatis & Diocesis Can-  
tuar' & Decani & Capituli Cathedralis  
& Metropolitani Christi Cantuar' pzed' (ad  
quos omnes & omnimod' Iurisdic'io Spi-  
ritualis & Ecclesiastica que ad Archie-  
piscopum Cantuar' sede plena ptinet ipsa  
sede tunc vacante tunc dignoscebatur per-  
tinere) commissarium rite & legitime  
constitutum debito & legitimo modo com-  
missa fuit] seu eozum alteri nondum sol-  
verunt nec eozum alteri solvit sed illas  
eidem T. in vita sua ac pfac A. post ipsius  
T. mortem pdictus R. Pater in vita sua  
contradix' & pdictus R. Filius & Heres  
adhuc solvere contradicit & injuste detinet  
in retardat'one Administrat'ionis bonozum  
& catallozum pzed' T. pzed' ad dampnum  
ipsius A. quadragint' Librarum Et inde  
produc' Sextam &c. Et pfer' hic in Curia  
eadem A. Literas Testamentarias pzed'  
Commissar' que Commission' Administra-



Idem p̄dicē in forma p̄dicē testantur quard  
dāc est vicesimo nono die Decemb̄is An-  
no (Æc.) supradicto, &c.

See 1 Bro. 156. Thomp. 134. Vidian. 177.  
Vers' fil' & hered' sur obl' Hans. 89. Vi-  
dian. 177. Bro. Red. 194. Bro. Vad. 154. (&c.)

*Pro Administrator' versus Executor'  
super Obl'.*

**A.** **D.** Administrator omnium & sin-  
gulozum bonorum & catallozum  
que tuer' C. D. nuper defunct' tempore  
mortis sue qui obiit intestat' ut dicitur  
queritur de J. R. Executor Testamenti  
& Ultime Voluntatis W. G. filiter de-  
funct' alias nuper dice W. G. de (Æc.) in  
custod' Mari, &c. de p̄lito quod reddat ei  
ducene Libras legalis Monete Anglie  
quas ei iniuste detinet p̄ eo videlt quod  
cum p̄dicē W. in vita sua scilicet (tali  
die & anno) apud B. in Comd p̄dicē p̄  
quoddam scriptum suum obligatorium  
Sigillo ipsius W. in vita sua sigillae  
Cuiq; dice Domine Regine nunc hic o-  
stens cujus dāc est eisdem die & anno  
cogit se teneri & firmiter obligari p̄clae  
C. in vita sua in p̄dicē ducene libris sol-  
vend' eidem C. Executoribus vel Ad-  
ministratozibus suis cum inde requisie  
esset p̄dicē tamen W. in vita sua & p̄  
J. post ipsius W. mortem licet sepius re-  
quisie, &c. p̄ ducene libe p̄clae C. in vita  
sua seu p̄clae D. post ipsius C. more (cui  
quidem)

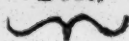
Debt.  
Admini-  
stration  
committed.

quidam D. Administrao omnium & sin-  
gulorum bonorum & catallorum jarium  
creditorum que fuerit pcedice C. tempore  
mortis sue p C. Providentia Divina Car-  
tuar Archiep totius Anglie Primar &  
Metropolitan primo die Septembri  
Anno Millimo sexcentesimo & nonage-  
simo tertio commissa fuit) nondum sol-  
verunt nec eorum alter solvit sed ille pcedice  
C. in vita sua seu pcedice D. post ipsius  
mortem solvere pcedice M. in vita sua om-  
nino recusabit & pcedice J. post ipsius  
mortem solvere adhuc recusat & injuste  
detinet ad dampnum ipsius D. quadra-  
ginta librarum. Et inde producit Se-  
ntentiam, &c. Et profert (&c.) ut antea  
Pag. 311.

See Cl. Man. 246. Bro. Vad. 209. 2 Mod.  
Intr. 329.

*Narr' in debito brought by the survi-  
ving Obligee.*

C. B. ff. **A** B. nuper de (&c.) alias dict (&c.)  
sum fuit ad respondend C. D.  
de pito quod reddat ei vigine libe quas  
ei debet & injuste detinet, &c. Et unde  
idem C. p J. K. Attoz suum dicit quod  
cum pcedice A. primo die Augusti Anno  
(&c.) apud S. p quoddam scripto suo obli-  
gatorium concessisset se teneri eidem C.  
ac cuidam C. G. jam defuncto quem pcedice  
C. superavit in pcedice vigine libe sol-  
vend eidem C. D. & C. G. aut eorum  
alteri



Alteri cum inde requisie fuisset p̄dicte ta-  
men A. licet sepius requisie p̄dict vigine  
eisdem C. D. & T. B. aut eorum al-  
teri in vita ipsius C. seu eidem C. post  
mortem ipsius C. quem p̄dicte C. super-  
vixit nondū reddidit sed illi eis reddere  
contradixit ac illas eidem C. adhuc red-  
dere contradixit unde die quod deteriorae  
& dampnum fiet ad valens decem li-  
brarum Et inde p̄duc Sec, &c. Et p̄fert  
hic in Cur script p̄dict, (&c. vide postea.)

See Thomp. 115. 1 Mo. Intr. 158. Cl.  
Man. 254, 282. 1 Bro. 163, 175.

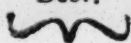
*Pro Executore versus Hæredem super  
Billa Penali.*

**J. B. Executor Testamenti & Ultime. B. R.**  
**J. Voluntas C. D. Gen defunct que-**  
ritur de **M. R. filio & Hærede M. R.**  
Gen nuper defunct' alias dict' (&c.) in  
custod' Mart, &c. de p̄lito quod reddat ei  
viginti libr' legalis Monete Anglie quas  
ei injuste detinet p̄ eo videlicet quod cum  
p̄dict M. Pater p̄dicte M. modo defunct' ac  
cujus Hæres ipse est in vita sua scilicet  
(tali die & anno) apud (&c.) per quan-  
dam Billam suam Obligatoriam Sigil-  
lo ipsius M. Patris in vita sua sigillat  
Cur' die Domine Regine nunc hic o-  
stens' cujus dat' est eidem die & anno  
cogn' se debere & indebitari p̄fata C. in  
vita sua in summa decem libr' legalis  
Monete Anglie solvens eidem C. Exe-  
cutori;

Bill' Cur'  
ostens'.



Debr.



eutozibus Administratozibus vel Am  
 nat suis ad vel super primum die  
 Maij tunc prox' sequen' dat Bille Obl  
 gatorie p<sup>o</sup> Et p vera solucone inde  
 W. Pater tunc obligavit se Heredes E  
 ecutores & Administratores suos in  
 summa vigint libzarum firmiter p can  
 dem Willam Et p<sup>o</sup> J. in facto dicit quod  
 p<sup>o</sup>dict W. Pater in vita sua aut p<sup>o</sup>dict W.  
 Filius post ipsius W. Patris mortem  
 vel eorum alter non solvit p<sup>o</sup>lat C. in  
 vita sua seu p<sup>o</sup>lat J. post ipsius C. mortem  
 p<sup>o</sup>dict decem Libzas ad vel super p<sup>o</sup>dict  
 primum die Maij quas ei super eunden  
 diem solvisse debuit secundum formam  
 effectum Bille Obligatorie p<sup>o</sup>dict per  
 quod actio accrebit eidem C. in vita sua  
 ac p<sup>o</sup>lat J. post ipsius C. mortem: ad  
 exigend' & habend' de p<sup>o</sup>lat W. Patre in  
 vita sua ac de p<sup>o</sup>dict W. modo defendens  
 post ipsius W. Patris mortem p<sup>o</sup>dict vi  
 gint Libzas p<sup>o</sup>dict tamen W. Pater in  
 vita sua ac p<sup>o</sup>dict W. modo defendens post  
 ipsius W. mortem licet sepius requisitus  
 &c. p<sup>o</sup>dict vigint libzas p<sup>o</sup>lat C. in vi  
 ta sua seu p<sup>o</sup>lat J. post ipsius C. mortem  
 nondum solvet nec eorum alter solvit sed  
 ill p<sup>o</sup>dict W. Pater in vita sua ac p<sup>o</sup>dict  
 W. modo defendens post ipsius W. Pa  
 tris mortem p<sup>o</sup>lat C. in vita sua & p<sup>o</sup>lat  
 J. post ipsius C. mortem solvere omnino  
 contradixerunt & p<sup>o</sup>dict W. modo defendens  
 ill eidem J. adhuc contradicit & injuste  
 detinet ad dampnum ipsius J. decem  
 Libzarum & in retardacionem execucionis  
 Testi p<sup>o</sup>dict Et inde producit Sextam  
 &c.

Et profert hic in Cui idem J. Li-  
teras Testamentarias predictas C. predictas  
quas satis liquet Cur hic ipsam J. fore  
Executorem Testamenti illius & inde  
Administrationem, &c.

Profert Li-  
teras Te-  
stamenta-  
rias.

Pro Exec' vers' hered' sur obl', Clif. 242, 244.

Vers' frem' & hered', 1 Bro. 165, Clif. 243.

Vers' hered' Atunc. 3 Brownl. 121. Bro. Red.

Vers' Exec' hered', Rast. 172.

Vers' ux' filiam & hered', Rob. 210.

Vers' Cohered', Ash. 231.

Vers' Cohered' in Gavelkind, Bro. Red. 195.

Id. 203. 1 Brownl. 128.

For an Administrator during the Mi-  
nority of the Executor.

**A** B. nuper de (Ac.) alias die (Ac.) C. B.  
ad respondit C. D. Gen Admini-  
strator omnium bonorum & catallorum  
que fuerit G. W. durante minori etate B.  
Executozis Testi predict' C. de plito  
quod reddat ei viginti libris quas (Ac.) Et  
inde (Ac.) p quendam Willam (Ac.) cog-  
novisset se debere pfat' G. in vita sua 10 l.  
libens eidem G. Executori (Ac.) (tali  
die pr' sequen' dat' ejusdem Wille & ad  
satisfactionem bene & fideliter faciend' predicta  
obligasset se (Ac.) in predict' 20 l. per  
eundem Willam Et idem C. in facto dicit  
quod predict' A. non solvit pfat' G. in vita  
sua (tali die) in Wille predict' superius  
predict' 10 l. quas eidem G. Exec  
(Ac.)

Debt. **W** (Ec.) ad & super p̄dicta' diem solbisse d  
 buit secundum formam & effectum Bil  
 p̄dicta' per quod actō accrebit eidem &  
 in vita sua ad exigendū & hendū de p̄s A.  
 20 l. p̄dicta' tamen A. licet sepius requ  
 sit' p̄dicta' 20 l. p̄fat' C. in vita sua seu e  
 dem C. post ipsius G. mortem (cui A  
 ministratio omnium bonorū & catallorū  
 que fuer' p̄dict' G. tempore mortis sue  
 C. Providentia Divina (Ec.) tali die  
 anno (Ec.) apud (Ec.) durand' minoꝝi eta  
 p̄dicta' S. qui adhuc sup̄stes & in plen  
 vita ac infra etatem existit videlt ap  
 (Ec.) p̄dicta' post mortem p̄dict' G. con  
 missa fuit) nondum reddidit (Ec. ut  
 al') Et p̄fert, (Ec.)

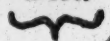
Admini-  
 stration  
 committed  
 during Mi-  
 nority.

See 1 Bro. 56. Bro. Red. 198. Reads. D.  
 232. 1 Mo. Intr. 172.

Against an Heir upon a Bond by an E  
 cutrix and Co-executrix, where t  
 Executrix had taken a Husband.

Verbū. **T** M. nuper de (Ec.) filius  
 . Heres J. W. nuper di  
 (Ec.) ad respondens C. D. & A. H  
 ejus Executrici Testi S. W. & G.  
 Co-executori cum p̄dict' A. Testi p̄di  
 (Ec.) 10 l. quas eis injuste detinet (&  
 Et unde (Ec.) dic' quod cum p̄dict' J. p̄  
 ter ipsius C. cujus Heres idem C. est  
 vita sua (Ec.) p quoddam scriptum (&  
 concessisset (Ec.) in p̄s 100 l. solvend' (&  
 Et ad eandem solutōnem (Ec.) p̄fat' J. c  
 ligat





passet se & Heredi suos p idem scriptum  
 dia' tamen J. in vita sua & pcedice C.  
 ilius & Heres pdict J. post ipsius J.  
 portem licet sepius requisie pdict' 100 l.  
 fac S. in vita sua seu eidem A. & G.  
 um ipsa A. sola fuit sibe eisdem C. A.  
 G. post sponsalia inter ipsos C. & A.  
 elebrac non reddidit sed ill' eis reddere  
 contradixit Et ill' eidem C. A. & G. ad-  
 re reddere contradic ac injuste detinet  
 inde (Ec.) Et pofert (Ec.) tam scripe  
 pdict (Ec.) quam Literas Testatias pō  
 p quas (Ec.) Et inde here Administra-  
 on, Ec.

See before, and also see after concern-  
 ing Executors, &c.

Upon a Bond without Date.

Quod cum pdict' B. p quoddam scri-  
 ptum suum obligatorium fact' Si-  
 milat' & ut factum pdict' B. eidem C.  
 duodecimo die Martij Anno (Ec.) quarto  
 ind D. deliberac quod pcedia' C. Sigil-  
 pcedia' B. signū hic in Cui pferet con-  
 fisset se teneri (Ec.) (ut in af.)

See Bro. Red. 196. 3 Brownl. 124;  
 Simile sur Bill, Ash 218. 1 Mod. Inr. 177

By

By an Administrator upon a Bill Obligatory to pay the Intestate 50 l. upon the day of Marriage, or Death of his Daughter.

**N**. S. nuper de (Ec.) ad respond' C. D. Administrat' bonorum & catallorum que fuer' H. D. Vid' nuper Ur' (Ec.) qui obiit intestat' (Ec.) 50 l. quas (Ec.) C. unde (Ec.) dicit quod cum predict' S. tali die & anno) apud (Ec.) p. quandam Billam suam obligatoriam cognovisset debere p'lar' H. Vis in vita sua p'dict' solvend' eidem H. & Executoribus suis super eundem diem quo H. D. jun' (fi) lia p'dict' H. nuper Uxor' (Ec.) maritatus seu disponat' esset cuilibet person' aut ad diem mortis p'dict' H. jun' qui primo p'xor' accideret & pro vera solutione ind' obligasset se (Ec.) per eandem Billam p'steaque & ante diem impetracionis h'is original' p'dict' C. scilicet quarto die Julii Anno (Ec.) p'dict' H. nuper Uxor' (Ec.) apud (Ec.) obiit intestat' post cujus mortem scit eisdem die & anno Administrato omnium bonorum & catallorum que fuer' (Ec.) tempore mortis sue eidem C. per M. Providentia Divina (Ec.) commissa fuit Et p'dict' C. in facto dicit quod p'dict' H. jun' post mortem ipsius H. nuper Uxor' (Ec.) & ante diem impetracionis h'is p'dict' (Ec.) scit (tali die & anno) apud (Ec.) secundum Reges Ecclesiasticas Anglie cepit in virum suum quandam

quendam R. J. Gen p quod Ratio accete.  
 it eidem C. ad exigend & hend de pdice  
 5. pdice 50 l. pdice tamen (Ec.) Et pro  
 et hic in Cur (Ec.)



See Bro. Red. 198. Bro. Vad. 157. 1 Mod.  
 tr. 159.

Pro Adm' sur obl' solvend' quando Intest'  
 et etat' 21 annor', 1 Brown. 171. and 3  
 Brownl. 126.

For Money awarded upon a Parol  
 Submission.

**A** B. nuper de (Ec.) sum ad respond  
 . C. D. 40 l. quas (Ec.) quod cum  
 quedam secte controversie ac debae hite &  
 hoe fuissent inter ipsum C. & pfac M. &  
 am idem C. quam pfac M. postea scilt.  
 imo die Septembzis Anno (Ec.) apud  
 . p pacifikatione inde compmisset ac se  
 bmississet stare arbitrio ordinaçoni &  
 dicio quorundam C. f. & G. H. Arbi-  
 tator tam ex parte pd C. quam ex parte  
 dice M. indifferene elect' ad arbitrand &  
 dicand de & super omnibus & omnimo-  
 s causis & controversis acconibus sectis  
 lgr debitis computatis ac demandis  
 libuscunq hiris motis sive penden in  
 ndem C. & pfac M. p aliqua materia  
 sive causa quacunq ab origine mundi  
 qz pcedice pzinum diem Septembr ita  
 arbitrium ordinaço iudicium finis &  
 alis determinatis pdictor C. f. & G.  
 fact & deposite foret in scriptis sub ma-  
 nibus



Debr.

nikus & sigillis p<sup>o</sup> C. f. & G. H. ante vi-  
 cesimū quintū diem Decembr̄ tunc p<sup>o</sup> se-  
 quem̄ iidemq; Arbitratores accepe sup<sup>o</sup> se-  
 oñe Arbitrij Ordinaconis & Judicij p<sup>o</sup>  
 postea & ante vicesimū quintū diem De-  
 cembr̄ scilicet quinto die Novembr̄ Anno su-  
 p<sup>o</sup>radicto apud S. p<sup>o</sup> p quoddam scriptū  
 suū Arbitrij quod idem C. hic in Cur<sup>o</sup> p<sup>o</sup>  
 fert cuius dāc est eisdem die & anno Ar-  
 bitrac fuer ordinaver & adjudicaver in  
 p<sup>o</sup>dice C. & p<sup>o</sup>fac N. de & super p<sup>o</sup>missis in  
 forma sequen<sup>o</sup> videlt qd p<sup>o</sup> N. solveret aut  
 solvi causaret p<sup>o</sup>fac C. 40 l. in Festo (Ec.)  
 & quod super receptone p<sup>o</sup>dictarū 40 l. p<sup>o</sup>  
 C. faceret & sigillaret & ut factū suū deli-  
 baret p<sup>o</sup>fac N. generalem Relaxaconem  
 quam idem C. remitteret p<sup>o</sup>fac N. & N.  
 signū suis de & ab omnibus & omnimodis  
 acconibus lectis (Ec.) que tunc huius  
 extunc here potuisset aut here deberet  
 sus p<sup>o</sup>fac N. Executores sive M<sup>o</sup>signi suū  
 p aliqua materia re sive causa quacūq;  
 ab origine Mundi usq; ad primū diem  
 Septemb<sup>o</sup>is put p idem scriptū Arbitri  
 plenius apparet Et idem C. in facto d<sup>o</sup>  
 qd p<sup>o</sup>dice N. non solvit eidem C. in p<sup>o</sup>di-  
 Festo (Ec.) in p<sup>o</sup>di scripto Arbitrij super  
 us spec p<sup>o</sup>dicta 40 l. quas eidem C. ad  
 dem Festum solvisse debuit secundū  
 formam & effectum p<sup>o</sup>dice scripti Arbitri  
 p quod acō accrevit eidem C. ad exigē-  
 & hēnd' (Ec.)

See 69. 77, 89, 91. 2 Samd. 61. 1  
 Pl. Gen. 249. 276, 314.



An Action of Debt upon a Bill Penal,  
for the Payment of a Legacy.

**A.** B. nuper de London Clicus ali-  
dice A. B. of G. in the County  
of D. Executor of the last Will and Testa-  
ment of J. S. late of G. aforesaid; deceased,  
monitus fuit ad respondens H. W. de  
lito qd reddat ei vigine Libr quas ei de-  
bet & injuste detinet, &c. Et unde idem  
p J. D. Artoz suum dicit qd cum  
dice A. (tali die & anno) apud London  
in Parochia Beate Marie de Arcubus  
in Warda de Cheap p quanda William  
ad obligatoria qua idem H. Sigillo p  
L. sigillae in Cur pferit cujus dat esset  
idem die & anno recitan p Wila illam qd  
um pd J. p Testamentum & Ultimam  
Voluntatem sua inter alia dedisset & de-  
lasset pfac H. W. uni Filioz ipsius G.  
quasdam legationes que ad manus pdict  
H. ad tunc non venerunt nec deliberare  
averunt pd A. convenisset pmississet & con-  
cessisset ad & cum pfac H. Executoribus &  
Assignat suis quod ipse idem A. Execu-  
tor vel Assignat sui ante quintam die  
Julij tunc prime sequend solverent re-  
compensarent & satisfacerent dicto H. aut  
Assignatis suis ad vel apud tunc Domu  
Hantonaalem ejusdem H. in London om-  
nia talia Legationes & Legatoria (Ang-  
lice Bequests) aut valore eorundem in  
pecuniis numeratis que pfac H. dat &  
legat fuerunt p Testamentum & Ultima  
Volun-

Debt.



Voluntatem dicti Patris sui & p vera p  
 formaone inde p dice A. obligasset se Et  
 exutores & Administratores suos p eandem  
 Willam in centum solidis de p dice vi  
 gint libris nomine pene solvend eidem  
 H. cam inde requisitus fuisset Et p predict  
 in facto dicit qd p dict J. primo die Sep  
 tembris Anno (sc.) apud (sc.) condidit  
 Testamentu & Uir Voluntatem sua  
 scriptis ac p eadem inter alia voluit  
 legavit eidem H. quadragint solid  
 unum Spadonem Et eidem H. ulterius  
 in facto dicit qd p dict T. post confectio  
 Wille p dict & ante quintum diem Jul  
 non solvit eidem A. p dict quadragint  
 solid nec pretium ejusdem quos ei ante  
 p dict diem solvisse & delibasse debuit  
 tunc formam & effectum Wille p dict  
 p quod actio accrebit eidem A. ad exigent  
 & habend de eodem T. eadem viginti lib  
 p dict tamen T. licet sepius requisit (sc.)

See Bro. Vad. 224.

See after Debt upon Recognizance an  
 Statute-Staple.

By an Executor upon an *Emisset*.

II. **A** B. Executor Testi & Uir Volu  
 tatis C. D. queritur de C. f.  
 custodit Marz, &c. de p lito qd reddat  
 100 l. legalis (sc.) quas ei injuste de  
 net p eo videlt qd cum p dict C. (tali  
 & anno) apud (sc.) in Com p dice emiss  
 de p lat C. in vita sua viginti virge



## Of Declarations.

343

Debt.



panni lanei (vocat' Broadcloath) p 20 l.  
 decem virgat' serie' (vocat' Lutestring) p  
 10 l. &c. naming the Goods) solvend' ei-  
 dem C. cum inde requisie esse que quidem  
 separa' denat' sum' in toto se attingunt  
 ad 100 l. p'dict' tamen C. licet sepius re-  
 quisit, &c. p'd 100 l. p'fat' C. in vita sua seu  
 eidem A. post ipsius C. mortem seu eorū  
 alteri non solvit sed ille eis solvere om-  
 nino contradixit & ille eidem A. adhuc  
 solvere contradic' ac injuste detinet in  
 retard' debet' executō' Testi p'dict' C. p'd'  
 Et ad dampnum ipsius A. 20 l. Et inde  
 pduc' Sec', &c.

See 1 *Instr. Clerical.* 319.

*Pro Adm. sur Emisset pro parte, 1 Mod. Intr.* 170.

See Debt upon *Emisset*, 1 *Brown.* 151.  
 160, 166. *Rob.* 121. *Cl. Man.* 269, 276.  
*Pl. Gen.* 280. 325. 1 *Mod. Intr.* 152, 163.  
*Bro. Vad.* 163, 164.

Upon a *Concessit Solvere* for the Marri-  
 age Portion of the Defendant's  
 Daughter, whom the Plaintiff had  
 taken to Wife.

**A** B. nuper de (&c.) in Com' p'dict'  
 A. sum' fuit ad respondend' C. D.  
 de plico qd reddat ei centum Libras quas  
 ei debet & injuste detinet, &c. Et unde  
 idem C. p' R. S. Att' suum dicit qd cum  
 inter ipsum C. & p'fat' A. decimo die fe-  
 bruarii anno (&c.) apud (&c.) concordat'  
 fuisse

## Of Declarations.

fuiſſet qđ idem C. quandam E. B. filiam  
p̄dice A. in Uxorē, & eadem E. ipſam  
C. in Virum p̄ legitimū matrimoniu  
ine eoſde C. & E. celebzanđ arceperat  
quorū maritagio ſic fiend' & ſolempni  
zanđ p̄dice A. conceſſit ſolvere eidem C.  
centum Libr̄ ſolvend' eidem C. cum inde  
requiſit' fuiſſet Et idem C. in facto dic  
qđ matrimoniu p̄d inter ipſum C. & p̄fac  
E. (tali die & anno) apud (Ec.) in Eccle  
ſia Parochial' ibidem celebzar & effect  
fuit p̄ quod actō accrebit eidem C. ad  
exigend' & hend' de p̄fac A. p̄dice centū  
Libr̄ p̄dice tamen A. licet ſepius requi  
ſit p̄ centum Libr̄ eidem C. nondum re  
p̄didit ſet ill' ei huculq; reddere contra  
dixit & adhuc contradic' unde dic' quod  
deteriorat' eſt & dampnum het ad valen  
(Ec. Et inde pduc' Sec, &c.

See 1 Mod. Intr. 150.

*Note,* By Stat. Car. 2. no Action ſhall  
charge any perſon upon Agreement of  
Marriage, unleſs the Agreement or ſome  
Memorandum or Note hereof ſhall be  
in Writing, ſigned by the Parties to be  
charged.

*In Banco Regis.*

Debt.

For the Diet of the Defendant's Wife  
and Servant, and for Pasture of the  
Defendant's Horse.

**A.** queritur de C. D. in Custodi  
Mari, &c. de plito qd reddat ei  
sexagint' Libras legalis Monete Anglie  
quas ei debet & injuste detinet p eo vi-  
delicet qd cum pdict' C. tal die & anno) apud  
S. in Com pdict' posuisset Uxorem suam  
& unum Servient suorum comensales cum  
eodem M. a pdict' primo die Maij anno  
supradicto p & durand termino trium an-  
norum extunc pr' sequend plenar complendi  
necnon ad suppeditand & inveniend pa-  
bulum & pastur tam tempore hiemali  
quam estivali pro uno Equo p tempus  
pdict' reddend & solvend ex causa ill ei-  
dem M. in fine cujuscumq' Anni vigint'  
Libr legalis Monete Anglie que in toto  
se attingunt ad sexagint' Libr Et idem  
M. in facto dicit' qd pdict' C. Ux' ejus ac  
famulus ejus comensales extitissent cu  
eodem M. a pdict' primo die Maij anno  
supradicto p tres annos tunc pr' sequend  
Ac etiam idem M. suppeditabit & inve-  
niebat pabulum & pastur tam tempore  
hiemali quam estate p uno Equo durand  
pdict' tempore p quod actio accrebit eidem  
M. (&c.)

See Rob. 236. 1 Brown. 162. 166.

M 4

Nar.



Debt.

*Narr' in debito for Horse-hire. In  
Com' Banco.*

**A.** **B.** sum fuit ad respondend **C.** **D.**  
**A.** de plito quod reddat ei sex libe  
 & decem solid. quos ei debet & injuste de  
 tinet, &c. Et unde idem **C.** p **D.** **S.** **A.**  
**C. B.** tozū suū die quod cum ipse (ta) die  
 anno) apud **M.** possessionae fuisset de uno  
 Equo ut de Equo suo ppr Et sic inde pos  
 sessionae existē postea scilt eidem die  
 anno apud **M.** pdice dimisisset eundem  
 Equū pfae **A.** ad equitand per spatium  
 trium septimanarum tunc pr' sequend  
 abinde quamdiu pō **A.** placeret reddend  
 inde eidem **C.** quadragine solidos p pdice  
 tribus septimanis & octodecim denar p  
 quolibet die quo pdice **A.** Equum pdice  
 post ealdem tres septimanas secum ab  
 eodem **C.** retineret solvend eidem **C.** cum  
 inde requisie fuisset Et idem **C.** in facto  
 dicit quod pdice **A.** Equum pdice p pdice  
 tres septimanas & sexagine dies habuit  
 & secum ab eodem **C.** retinuit p quod actō  
 accrebit eidem **C.** ad exigend & hend de p  
 fae **A.** pō sex libe & decem solid pdice ta  
 men (&c.) ut in al.

*In Communi Banco.*

Debr.

Against an Executor for the Testator's  
Sister's Board.

**S** P. nuper de B. in Com p<sup>o</sup>  
Gen<sup>o</sup> Executor Testri G. P.  
N<sup>o</sup> sum<sup>o</sup> tuit ad respondend<sup>o</sup> C. D. Gen<sup>o</sup>  
de plito quod reddat ei trigine Libras  
quas ei iniuste detinet, &c. Et unde idem  
C. p<sup>o</sup> J. C. Artoz<sup>o</sup> suum dicit q<sup>o</sup> cum p<sup>o</sup>  
G. in vita sua primo die Augusti Anno  
(&c.) apud (&c.) in Com p<sup>o</sup> posuit C. P.  
Sorozein ipsius G. foro commensal<sup>o</sup> cum  
ipso C. ab eodem primo die Augusti anno  
supradicto p<sup>o</sup> duos annos integros tunc  
p<sup>o</sup> sequen<sup>o</sup> p<sup>o</sup> quindecim Libris p<sup>o</sup> quoli-  
bet anno eidem C. inde solvend<sup>o</sup> p<sup>o</sup>dictas C.  
commensalis cum eodem C. p<sup>o</sup> duos annos  
finie primo die Augusti anno (&c.) vir-  
tute positionis illius extitisset p<sup>o</sup> quod acfo  
accrebit eidem C. ad exigend<sup>o</sup> & h<sup>o</sup>end<sup>o</sup> de  
p<sup>o</sup>dice G. in vita sua p<sup>o</sup>dice trigine Libras  
p<sup>o</sup>dice tamen G. in vita sua ac p<sup>o</sup>dice S.  
post mortem ipsius G. licet sepius requi-  
sit p<sup>o</sup>dice trigine Libe p<sup>o</sup>fac C. nondum  
reddider<sup>o</sup> set illas ei hucusq<sup>o</sup> reddere con-  
tradiret ac p<sup>o</sup>dice S. ill<sup>o</sup> eidem C. adhuc  
reddere contradicit ac iniuste detinet un-  
de dicit q<sup>o</sup> deteriorae est & dampnum het  
ad valene vigine Librarum Et inde p<sup>o</sup>  
duc Sec. &c.

See *Thomp.* 124. *Bro. Red.* 219. *Pl. Gen.* 316.  
For

## For the Salary of a Curate.

ff. **A.** B. nuper de (Ec.) Clericus sum  
fuit ad respond' J. H. Clerico  
de placito qd' reddat ei quadragine li-  
bras quas ei debet & injuste detinet, &c.  
Et unde idem J. per W. C. Attor' suu  
dicit qd' cum p'dict' A. primo die Jan'  
(ec.) apud (Ec.) retinuit ipsum J. (adunc  
in Sacris Ordinibus existend) t'pore Curat'  
ipsius A. in Parochial' Ecclesia de C.  
(eodem A. adunc & adhuc existend t'pore  
Ecclesie Parochialis p'dice) ad deserv-  
viend' & ulterius ad faciend' & exequend'  
omnia & singula que ad Officium talis  
Curat' Ecclesie debent fieri & p'formari in  
eadem Ecclesia (a dice primo die Jan'  
anno ec.) p' uno anno integro tunc p'  
sequend' capiens p'inde de p'dict' A. p'  
salario suo p'p'io tempore illo 40 l. solvend'  
eidem J. cum inde requisie esset virtute  
cujus retentionis p'dice J. continuabit  
Curat' p'dice A. in Ecclesia p'dice in  
forma p'dice per totum tempus p'dice &  
bene & fideliter p'formabit & exerceat  
omnia & singula que ad Officium talis  
Curat' in Ecclesia p'dict' pertinuer' per  
quod actio accrebit, (Ec.)

See Bro. Red. 170.

Simile pro Presbytero, 1 Brown. 176.

Simile pro Ludi Magr. Bro. Red. 179.



For a Chyrurgeon, being retained to  
cure a Wound.

**A.** B. nup de (Ec.) sum fuit ad  
respond C. D. de pito qd reddat  
centū solidos quos ei debet & injuste de-  
tinet, &c. Et unde idem C. p J. R. At-  
tor suū dicit qd cum pzed A. (tal die &  
anno) apud (Ec.) retinisset ipsum C. ad  
curand pzed A. de quodam vulnere in si-  
nistro Oculo ejus de quo pzed A. adtunc  
languebat capiend de pzed A. p curaconē  
vulneris ipsius A. pzed centū solidi  
solvend eidem C. cum inde requisit esset  
virtute cujus retenconis pzed C. eundem  
A. de vulnere pdicto postea apud P. pzed  
curabit p quod acto accrebit (Ec.)

See 1 Bro. 174. Hansf. 89. Bro. Red. 182.

For an Executor for Rent reserved on an  
Indenture of Lease.

**A.** B. Vidū Executrix Testi & Alti-  
me Voluntat C. B. defunct per  
J. S. Attorū suū petit versus C. R.  
quadragine Libi quas ei injuste detinet,  
eo qd cum per quandam Indenturam  
factam in Parochia (Ec.) primo die Maij  
Anno (Ec.) inter pfac C. in vita sua per  
nomen (Ec.) ex una parte & pfac C. per  
nomen (Ec.) ex altera parte cujus alte-  
ram partem Sigillo pdict C. signat & ge-  
ratū

Debr.

W

red̄ dāc eisdem die & anno eadem A. h  
 in Cui p̄fert p̄dix' C. in vita sua dimi  
 sisset concessit & ad firmam tradidisset p̄  
 fae C. unum Messuagium cum p̄tind sc  
 tuae (Ec.) habens & tenens eidem C. Ex  
 ecutor Administrator & Assign' suis  
 festo Sancti Michaelis Archi tunc ul  
 p̄terie usq; finem & terminum quinq; an  
 norum extunc p̄r' sequend' & plenar' com  
 plend' & finiend' reddend' & solvend' ind  
 annuatim durante dicto termino p̄fae  
 Exec Adm & Assign' suis annualem red  
 die trigrine Librarum legal' Monete An  
 glie ad quatuor festa vel terminos i  
 anno videlt ad festa Natalis Dñi (Ec.)  
 p̄ equales porciones virtute cuius quiden  
 dimission' idem C. in Messuagium p̄f  
 cum p̄tind intrabit & fuit & adhuc est ind  
 possessionae Et sic inde possessionae ex  
 istend' p̄red' C. quinto die Julij Anno Dom  
 (Ec.) in Parochia p̄red' condidit Testa  
 mene & Ale Voluntatem suam in scriptis  
 & inde constituit p̄fae A. Executricem  
 postea scilt vicesimo die Julij Anno ul  
 supradicto p̄red' C. in Paroch p̄red' obii  
 post cuius mortem p̄red' A. omnis execu  
 tionis Testamenti p̄red' in Paroch p̄red  
 sup se suscepit ac quadragine libe de red  
 ditu p̄red' p̄ uno anno & uno quartere  
 unius anni finit ad fest' (Ec.) Anno Dom  
 (Ec.) eidem A. post mortem p̄red' C. are  
 tro fuerunt & adhuc existunt mie solue p̄  
 quod Acto accrebit eidem A. ad exigend  
 & hend' de eodem C. p̄red' 40 l. jam peric  
 p̄red' tamen (Ec.) Et inde p̄duc' Sec, Ec.  
 Et eadem A. p̄fert hic in Cui Literas  
 Testamen-

Testamentarias p[re]d' C. p[er] quas satis li.  
 quet Cur hic ipsam A. fore Executricem  
 p[re]d' C. & inde here Administratōem &c.

See Cl. Man. 260.

Pro Exec' de reddit' debit' Testatori. 1 Mod.  
 Intr. 173.

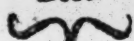
*In Banco Regis.*

For Rent Arrear, upon a Lease Parol  
 for a Year, and afterwards at Will.

**A.** B. queritur de C. D. in custod  
 A. Marti &c. de p[re]sente q[uo]d reddat ei  
 60 l. legalis Monete Anglie quas ei de-  
 bet & injuste detinet p[er] eo videll[icet] q[uo]d cum  
 p[re]d' A. vicesimo quinto die Martij anno  
 (Et.) apud (Et.) in Com[itatu] p[re]s[entis] dimississet  
 & ad firmam tradidisset eidem C. unum  
 messuagium decem Acr Terre decem Acr  
 prati & vigine Acr Pasture cum p[re]s[entis] sci-  
 tuar jacen[tes] & existen[tes] in Paroch (Et.) in  
 Com[itatu] p[re]s[entis] habend[um] & occupand[um] Centa p[re]s[entis]  
 cum p[re]s[entis] eidem C. & Assign[is] suis abinde  
 usq[ue] finem & terminum unius anni inte-  
 gri extunc p[er] sequen[tem] & plenar[um] complen[tem]  
 & finiend[um] Et sic de anno in annu[m] quam-  
 diu ambabus partibus p[re]d' placeret  
 reddendo & solvendo annuatim & p[er] quoli-  
 bet anno in quo idem C. Centa p[re]d[icta]  
 cum p[re]s[entis] heret & occuparet eidem A. &  
 Assignat[is] suis annualem redditu[m] vigine &  
 quatuor Librarum legalis Monete An-  
 glie ad Festa Sancti Michaelis Archi



Debt.



& Annunciatō Beate Marie Virgini  
 equas & equales portō virtute cujus  
 quidem dimissio idem C. in Tēta p  
 cum ptiū intrabit eademq; usq; Fest' (sc  
 anno (Et.) huius & occupabit ac sexagin  
 libe de annuali redditū pzed p Tētis p  
 cum ptiū p duobus annis integris & d  
 mid' unius anni finie ad Festum illud e  
 dem A. aretro fuer' & adhuc insolue ex  
 sunt p quod actō accrebit eidem A. a  
 exigend' & hend' de pfac C. eadem sexa  
 gine libe pzed tamen (Et.) ad dampnu  
 (Et.) Et inde pduc Sextam, Et.

See 1 Mo. Intr. 174. Bro. Vad. 207. Cl  
 234, 248. Hansf. 76, 68. 2 Ven. 151.

Pro reddit' solubil' monthly and weekly  
 2 Ven. 156. Reads Dec. 213. See after.

### Upon an Annuity.

ff. **A**. B. queritur de C. D. in custod  
 A. Mari Et. de plito qd reddat e  
 tringine Libi legalis Monete que ei aretro  
 existunt de quodam annuo redditū decem  
 Libzardū quas ei debet p eo videlt qd cum  
 pzed' C. (tali die & anno) apud A. in  
 Com' pzed' p quoddam scriptū suū in  
 bene Sigillo ipsius C. sigillat' Curq; die  
 Dñe Regine nunc hic ostens' cujus dat' est  
 die & anno supradictis p dictis causis a  
 certis consideracionibus ipsum C. ad illud  
 specialie moveb' necnon p quadam compe  
 tenti Pecunie Summa eidem C. p pzed  
 A. in sigillatō pzed' scribe indentat' per  
 solue

blue de  
 entae)  
 ualem  
 onete  
 piend'  
 em Li  
 is ad  
 pered  
 anni ter  
 quales  
 termino  
 um (  
 cripe p  
 ius an  
 idem A  
 in Diū  
 integr  
 diem i  
 die & e  
 eidem  
 readin  
 dam

See  
 Pro  
 179.  
 Pro  
 Pro  
 De  
 183.  
 Si  
 1 Sa  
 Ent  
 S

plene dedit concessit & p idem scriptum in-  
tentae) confirmabit pfac M. quendam an-  
nualem redditu decem Libre bone & legalis  
monete Anglie bend' tenend' leband' & p-  
cipiend' pzed' annuat redditu pdictarū de  
em Librarum pzed' M. Hered & Assign  
nis ad solum opus & ulum ipsius M.  
hered & Assign suoz imppetu ad duos  
anni terminos videlicet ad fest' (&c.) per  
equales portiones annuatim solvend' primo  
termino solutōnis inde incipiend' ad fe-  
stum (&c.) tunc ppor' sequend' post dae  
scripe pdicta put p idem scriptū inc at ple-  
nius apparet virtute cuius concessionis  
idem M. fuit de annuo redditu pzed' seisse  
in Dinco suo ut de feodo usq; tres annos  
integros finie ad festum (&c.) primū ante  
diem impetraōis ipsius Wille scist (tali  
die & anno) quodq; pzed' C. annum pzed'  
eidem M. subtraxit & illi ei reddere con-  
tradixit & adhuc contradic' unde dic' (&c.)  
& dampnū (&c.) Et inde (&c.)

See Bro. Red. 190. Rob. 219.

Pro Exec' Receptor' proficuum, &c. 1 Bro.  
179. 1 San. 276, 282.

Pro Exec' versus Exec', Rob. 219.

Pro Adm', Bro. Red. 169. Pl. gen, 102.

Debt pro Reddit' solubil' ad 2 Fest', 1 Bro.  
183. Vidian 162. Bro. Red. 226.

Simile ad quatuor Festa. Bro. Red. 208, 230.  
1 San. 202, 296. 2 Ven. 177, 250. Winch  
Entr. 125, &c.

See Thomp. 108, 114, 116, 117, 152, &c.

. By

By an Executor against the Marshal for  
an Escape after Judgment.

Michs ff.

**A.** B. Executor Testi & Al  
Voluntae C. D. Gen de  
funct queritur de J. L. Mil Marit Ma  
rele Dñe Regine corā ipsa Regine existit  
plen hic in curia in ppe psona sua d  
plito qd reddat ei quadragine & octo Lib  
decem solidi & octo denar quas ei injus  
detinet p eo videlt qd cum pced' A. &  
quidam R. D. defunct' Executores Testi  
& Alle Voluntae C. D. Gen defunct' als  
in vita ipsius R. scilt Termino Scl Hil  
lar Anno (fc.) in Cur dia' Dñe Regine  
hic scilt apud Westm in Com pced' p ju  
dicim in Cur illa recuperassent sclus C  
S. Gen als dia' (fc.) quadragine & octo  
Libre de debo necnon decem solidi & octo  
Denar p dampnis suis que sustinuer tam  
octone detentōm debi illius quam p mia  
& custag suis p ipsos circa Sextam suam  
in ea parte apposit unde pced' C. conbio  
est posteaq scilt die Lune pr' post Crast  
Ascensionis Dñi Termino Pasche anno  
(fc.) pced' C. adtunc & ibidem pscns in  
eadem curia ad petitionem pced' A. & R  
p curiam Dñe Regine nunc commissus  
fuit Marescallo Marese Dñe Regine co  
ram ipsa Regin in Executōne p debo &  
dampnis pd put p Record & pcessum inde  
ac commissionem pced' in eadem curia dia'  
Dñe Regine coram ipsa Regin hic resid  
plenius liquet virtute cuius pced' C. fuit

Recovery  
on the part  
of two Ex-  
ecutors.

Commit-  
ment.



in custodi p'dice J. L. adtunc & adhuc Mare-  
 rescalli Marescalsie p'dice existend in execu-  
 tione p' debito & dampnis p'd quousq; postea  
 scilicet nono die Octob Anno (ec.) p'd J. L.  
 adtunc & adhuc Mari Marese ut p'fertur  
 existend apud Paroch Srd Egidij in Cam-  
 p'is in Comd Midd p'd C. extra custodiam  
 ipsius J. L. evadere & ad largum quo idē  
 C. voluit sine licentia & contra voluntate  
 ipsorum A. & B. ire permisit eidem A. &  
 B. seu eorum altero de debito & dampnis  
 p'd aut aliqua inde parcella adtunc vel  
 adhuc mie satisfacere existend p' quod actio  
 p'cedebat p'dice A. & B. in vita ipsius B.  
 seu eidem A. post ipsius B. mortem ad  
 exigend' & hēnd' de p'fate J. L. p'd' qua-  
 dringene & octo Libe decem Solid' & octo  
 Denar p'dice tamen J. L. licet sepius  
 requisit' &c. p'd quadringene & octo Libe  
 decem solid' & octo Denar p'fat' A. & B.  
 in vita ipsius B. seu eidem A. post ipsius  
 B. mortem seu eorum alteri nondum sol-  
 vit sed ill' p'fat' A. & B. in vita ipsius B.  
 & eidem A. post ipsius B. mortem solvere  
 minino contradixit ac ill' eidem A. solvere  
 adhuc contradic' & injusse detinet ad dam-  
 num ipsius A. 40 l. Et inde p'duc' Se-  
 am, &c. Et p'fert hic in Cur' idem A.  
 literas Testamentarias p'd' C. p'dice  
 quas satis liquet Cur' dice Dñe Regim  
 une hic ipsum A. fore executorem Testa-  
 m' C. p'd' Et inde hēre administratōem, &c.

See Thomp. 122. 150. Rob. 106. 223. Vi-  
 an. 181. 197. Cl. Man 283.

Simile vers' Submar', & Bro' 175 L. & Ent. 56.  
 2 Against

Debt.

Against a Sheriff for suffering a Prisoner to escape, who was in his custody upon Execution at the Suit of the Plaintiff.

**N.** **C.** D. Gen queritur de J. B. Ai in  
custod' Mari, &c. de p'lito qd' red-  
dat ei nonaginta Libras legalis Monete  
Anglie quas ei debet & injuste detinet  
eo videt qd' cum p'edice C. nuper scilicet  
Termino Pasche Anno (et.) in Cur' Dñe  
Regin' nunc coram ipsa Regin' apud Westm'  
in Com' Midd' p' Willam sine Brebi ejus-  
dem Dñe Regin' ac p' judicium ejusdem  
Cur' recuperavit versus quendam G. p'  
nonagine Libi p' dampnis suis que susti-  
nuit tam occasione cujusdam tñlgr sup Ca-  
sum eidem C. p' p'fat G. illae quam p'  
mis & custag' suis p' ipsum circa sectam  
suam in ea parte appositae unde convict et  
put per Recordum inde in eadem Curia  
Dñe Regin' plenius apparet Cumq' po-  
stea scilicet Termino Sec' Trinitatis Anno  
(et.) apud Westm' in Com' Midd' idem C.  
extra p'dia' Cur' dia' Dñe Regin' coram  
ipsa Regin' (eadem Cur' tunc apud Westm'  
p'dia' existens) p'secut' fuisset versus p'fat  
G. quoddam h're dia' Dñe Regin' nunc  
de capiend' p'edice G. ad satisfaciend' ei-  
dem C. de dampnis p'd' tunc Dic' Com'  
Verb' direct' per quod quidem h're Dñe  
Regin' tunc Dic' p'cepit quod capet p'dia'  
G. si invent' foret in Ballia sua & cum sal-

bo custod' ita qd heret corpus ejus coram  
 eadem Dña Regind apud Westm die Mer-  
 curij p'or' post Octab Scd Martini tunc  
 p' sequen' ad satisfaciend p'lar C. de pre-  
 dice nonagine Libris p dampnis p'edice  
 Et qd heret ibi tunc h'z illud quod quidm  
 h'z idem C. postea & ante Retroz h'z  
 illius scilicet vicesimo die Septemb'is  
 Anno (Ec.) supradicto apud Verb p'edice  
 in Com p'dice p'lar J. B. tunc die Com  
 p'dice existend in forma juris exequens  
 delibabit virtute cuius quidem h'z i-  
 dem J. postea & ante Retroz ejusdem  
 h'z scilicet decimo nono die Octob'is  
 Anno (Ec.) p'edice (tunc die Com Verb  
 p'dice existend) apud Verb p'dice in Com  
 p'dice G. cepit & arrestabit & ipsum G. in  
 custodia sua ad tunc & ibide' habuit & im-  
 prisonabit in executione de & p dampnis  
 p' usq' decimo diem Novemb' Anno (Ec.)  
 supradicto Quo die p'dice J. (tunc die  
 Com Verb p'edice existend ac p'dice G. in  
 custodia sua in executione p dampnis p'dice  
 existend) ipsum G. apud Verb p'edice in  
 Com p'dice extra custod' suam (eodem C.  
 de dampnis p'edice tunc m'ie satisfacta)  
 ad largum quo voluit ire & evadere per-  
 misit per quod actio aerebit eidem C. ad  
 habend & exigend de p'lar J. B. p'edice  
 nonagine Lib' p'edice tamen J. licet  
 sepius requisit. Ec. p'edice nonagine Li-  
 br' eidem C. nondum reddidit sed ille ei  
 hucusque reddere omnino contradixit &  
 adhuc contradic' unde idem C. die quod  
 deteriorat est & dampnum hec ad valenc  
 digine



*vigine Librarum Et inde inde produ-  
Bettam, &c.*

See Bro. Vad. 250. Cl. Man. 292. Rob.  
311. 1 Bro. 178.

Versus nuper Vic', 1 Bro. 157. 1 Saund. 34.  
Rob. 298. 300. Hans. 82.

Versus Constabular' Castri, 1 Bro. 150.

Versus Ballivum Libertatis, Thomp. 112.  
1 Bro. 155, &c.

*In Communi Banco.*

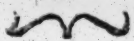
Against one of the three Bail in the  
Queen's Bench upon a *Scire Facias*  
and Execution adjudged.

**A.** B. nuper de (Ec.) sum fuit ad re-  
spond' C. D. de plito qd reddat e-  
centum & duas Libr quas ei debet & injuste  
detinet (ec.) Et unde idd C. p. D. Q. An-  
toz' suu die qd cum ipse p nomen C. D.  
alias in Cur Dñe Regiñ nunc coram ipse  
Regiñ eadem Cur apud Westm in Com-  
mido tunc existend scilicet Cermimo Hil-  
lar Anno (ec.) p Willam sine hie ejulden  
Dñe Regiñ ac p Judic ejulde Cur recu-  
passet versus C. F. de (Ec.) centum Lib-  
de debo necnon quadragine solid p dam-  
pnis suis que sustinuit tam ocione deten-  
ton debi illius quam p mis & custag sui  
p ipsum circa secta suam in ea parte ap-  
posse unde convicte est sicut eide Dñe Re-  
giñ constat de Recordo Executo tam-  
judicij ps de debo & dampnis pvice sibi

restabe

restabat faciendū ac cum p̄dice M. B. &  
quidam G. H. & J. it. de (sc.) alias scilicet  
Termino Sed Michaelis Anno (sc.) su-  
p̄radice corā ipsa Regiā apud Westm̄ p̄  
p̄sonalie venissent & devenissent p̄leg &  
quilibet eorū p̄ se devenit p̄leg p̄ p̄dice C.  
quod si contingeret ipsum C. in p̄lito p̄dice  
convinci tunc iudē G. H. & M. & quilibet  
eorū p̄ se concessisset omnia huiusmodi  
dampna mis & custag' que p̄lar C. in ea  
parte adjudicarentur de terris & catallis  
suis & eorū cuiuslibet fieri & ad opus ip-  
sius C. levari si contingeret p̄ C. debite &  
dampna illa p̄lar C. m̄ie solvere aut se  
p̄sone Marescallie dice Dñe Regiā corā  
ipsa Regiā ea octione non redder p̄ tamen  
debit & dampna illi p̄lar C. nondum  
solvit nec se ipsum p̄sionē Marescallie dice  
Dñe Regiā corā ipso Regiā ea octione  
reddidit put ex insinuatione ipsius C. Cur  
dice Dñe Regiā corā ipsa Dñe Regiā ac-  
cepit unde eidem Dñe Regiā supplicavit  
C. de remedio congruo sibi in ea parte  
videri Et quia idem Dñe Regiā voluit  
in ea parte fieri quod fuit iustū postea sci-  
et decimo die (sc.) Anno (sc.) ad p̄secu-  
tionem ipsius C. extra Cur dice Dñe Re-  
giā corā ipsa Regiā emanabit quoddā  
de dice Dñe Regiā tunc Die p̄dice Com  
sidds dicere per quod quidem h̄re idem  
Dñe Regiā nunc eidem tunc Die sidds p̄-  
cepit qđ p̄ p̄hos & legales hoies de Balli-  
sua scire faceret p̄lar G. H. & M. qđ  
erant corā dice Dñe Regiā apud Westm̄  
dice die (sc.) p̄r' post tres septimanas  
posthe tunc p̄r' sequēd ad ostend' si quid p̄  
se

Debt.



se herent aut dicere scirent quare idem  
**C.** executionem suam versus eos de debito  
 & dampnis **pdice** here non deberet juxta  
 vim formam & effectum Recognitionis **pd** si  
 sibi videretur expedire & ulterius factum  
 receptum quod **Cui** dice **Dña Regim** coram  
 ipsa **Regim** de eis in ea parte consensu & quod  
 heret tunc ibidem nota eorum per quos eis  
 scire fecisset & hinc illud ad quem diem cora-  
 ram dice **Dña Regim** apud **Westm** **pdice**  
**ven** idem **C.** in propria persona sua ac tunc **Die**  
**pdice** **Com** **Wido** videlicet **P. R. & C. S.** ad  
 tunc mandaverit quod **pdice** **G. J. & A.** nichil  
 huerit in Ballia sua per quod eis scire fac-  
 potuisset nec fuerit invene in eadem & ipse  
 tunc ibidem non venerit per quod sicut a-  
 lias tunc preceptum fuit tunc **Die** **pdice** **Com**  
**Wido** quod per **pbos**, &c. scire facit prelati **G. J. &**  
**A.** quod essent coram dice **Dña Regim** apud  
**Westm** **pdice** die (et.) proximo post mensem  
**Walche** tunc proximo sequenti ad ostendendum in forma  
**pdice** si, &c. ut ulterius, &c. idem dies da-  
 fuit eide **C.** ibidem, &c. ad quem diem coram  
 dicta **Dña Regim** apud **Westm** **ven** idem  
**C.** in propria persona sua & tunc **Die** **pd**  
**Com** **Wido** videlicet **pdice** **P. R. & C. S.** ut  
 prius mandavit quod **pdice** **G. J. & A.** nichil  
 huerit in Ballia sua per quod eis scire fa-  
 cere potuisset nec fuerit invene in eadem &  
 idem **G. J. & A.** ad diem illi solemni  
 exactum non **ven** sed default fecerit per quod  
 ad tunc in eadem **Cui** coram ipsa **Dña Re-**  
**gim** considerat fuit quod idem **C.** heret exe-  
 cutionem suam versus eos de debito & dam-  
 pnis **pdice** juxta vim formam & effectum  
 Recognitionis **pd**, &c. prout per Record inde in

Cui



Cui dict Dñe Regiñ coram ipsa Regiñ  
 credidit liquet manifeste idemq; C. execu-  
 tum inde nondum est assecutus p quod  
 actio accrebit (Et. ut in al.)

See *Thomp.* 125. 129. *Bro. Red.* 109, 210  
*Brown.* 177.

*Nar' versus Ordinarium.*

**E**piscopus Winton loci illi<sup>9</sup> Ordi-  
 narius ad cuius manus bona &  
 catalla que fuer C. D. qui obiit intestat  
 devenit nuper dict (Et.) sum fuit ad re-  
 spond G. H. de placito qd reddat ei vi-  
 gint Libr quas ei iniuste detinet, Et. Et  
 unde idem G. p J. H. Attoz suum di-  
 cit qd cum predict C. in vita sua primo  
 die Augusti Anno (Et.) apud (Et.) per  
 quandam Willam suam obligatoriam  
 quam pdict G. Sigillo pdict C. Signat  
 hic in Cur profert cuius dat est eidem  
 die & anno cognovisset se debere eidem  
 G. sexagint Libr solvend eidem G. Here-  
 dibus & Assign suis primo die Aprilis  
 hunc pr' sequent dat Bill pdict Ad quam  
 eidem solutionem bene & fideliter faciend'  
 predict C. obligasset se Heredes & Execu-  
 tores suos per eandem Willam pdictusq;  
 in vita sua de quadragint Libr inde  
 eidem G. postea satisfecit ac idem G.  
 obiit intestat' videlicet apud (Et.) post cuius  
 mortem bona & catalla que fuer ejusdem  
 tempore mortis sue ad valent pdicta 24  
 gint Librarum de 'predicta' sexagint'  
 Libr

Debt.

**Libri resid'** post mortem ejusdem C. videlicet (tal die & anno) apud (Ec.) ad manus p'dict' Episcopi debener per quod actio acc'e'bit eidem B. ad erigend' & hend' de p'fat' Episcopo p'd' viginti' Libri p'dicti tamen C. in vita sua ac p'dict' Episcopus post mortem ejusdem C. licet sepius requisit' p'dict' viginti' Libri eidem B. nondum reddider' set ill' ei redder' contra dixer' ac p'dict' Episcopus ill' eidem B. adhuc reddere contradic' ac injuste detinere unde (Ec.) Et inde p'duc' see, &c.

See I Bro. 171. 177. Pl. Gen. 291.

Count upon a Bill exhibited against an Attorney of the *Common Pleas*, upon a Bill Obligatory.

\* The Bill  
filed.

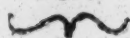
**M**emozand' q'd nono die Feb in eodem Termino ven' hic in Curia N. B. per S. C. Attorn suum & exhibuit Justic' Dñe Regiñ hic quandam Billam suam versus C. D. Gen' un' Attorn Cur' Dñe Regiñ de Banco hic p'sente hic in Cur' in p'pria persona sua placito debi cujus quibem Bille tenet lequitur in hec verba \* Justic' Dñe Regiñ de Banco London' N. A. B. per S. C. Attorn suum queritur de C. D. Gen' un' Attorn Cur' Dñe Regiñ de Banco hic alias dict' (Ec.) p'sente hic in Cur' in p'pria persona sua de eo quod non reddidit eidem A. 50 l. quas ei debet & iuste detinet p' eo videlicet (ut in al' sup' p'fat' Bill' est contentum) unde (Ec.) Et inde p'duc' see, &c.

## Of Declarations.

363

Bill ob<sup>t</sup> ) (ulq) ad dampnum (Ac) Et  
inde petit remedium, &c.

Debt.



Vide Bro. Red. 208, 231. Rob. 188. r  
Mod. Intr. 152. Bro. Vad. 205. Winch  
173.

*Versus un' Filazer*, Bro. Red. 219.

*Versus servien' ad Legem*, 1 Mod. Intr.  
158.

*Note*, Upon the Bill filed in the Office,  
you write the Prothonotaries Name, and  
the Term, and the Bill in Parchment, and  
*Pl<sup>g</sup> de Pro<sup>o</sup>*.

*Note*, That a Rule is given upon the Bill  
filed for his Appearance; or else to be fore-  
judged

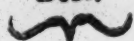
An Action brought by an Attorney up-  
on Account.

II. **A.** B. attach fuit p h<sup>re</sup> Dñe Re-  
gine de privilegio a Cui hic ema-  
nand ad respond' C. D. Gen und Attoz<sup>m</sup>  
Cui Dñe Regine de Banco juxta lib<sup>tae</sup>  
& privileg ejusdem Cui p hujusmodi At-  
toz<sup>m</sup> & al Ministris de eodem Banco a  
tempore quo non existit memoria usitae &  
apphae in eadem de plito debi Et unde  
idem C. in ppria psona sua dicit qd p<sup>re</sup>s  
A non reddidit eidem C. octo Lib<sup>re</sup> quas  
ei debet & injuste detinet p eo videlt (ut  
in al sup Comp<sup>m</sup>.)

See



Debr.



See *Winch Entr.* 333, 334. 1 Bro. 62. 1  
*Mod. Intr.* 152. 1 Bro. 62.

If it be for a Prothonotaries Clark, say,  
**Und Clericoꝝ J. C. At Capital Prothond**  
**Dñe Regine de Banco de plito &c.**

And note, That the words *juxta libtæ*  
&c. must be left out in the *Narr*'.

See *pro Attorn' pro Feod'*, Bro. Red. 176.  
1 Bro. 183. 2 Bro. 82. Bro. Met. 152, 154.  
*Thomp.* 11. *Hansf.* 92.

*Pro Prothon'*, 1 Bro. 77. Bro. Vad. 249.

*Pro Exec' Prothon'*, Bro. Red. 179.

*Pro Consiliario ad Legem*, Bro. Red. 172.

Against an Attorney of the Queen's  
Bench.

**n. A** B. queritur de C. D. Gen und  
Attorn in Cur Dñe Regine co-  
ram ipsa Regind juxta libtæ & privileg  
ejusdem Cur p hujusmodi Attorn in ea-  
dem Cur a tempore cujus conti mend  
hominum non existit usitæ & appbæ in  
eadem als dict' (&c.) plen hic in Cur in  
ppria psona sua de plito qd reddat ei 100l.  
legalis Monete Anglie quas ei debet &  
injuste detinet (&c.)

*Vide Hansf.* 77. Bro. Met. 150.

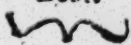
You

You may see the Title of an Entering Clerk of the Queen's Bench Office in the next President.

*Pro Cleric' pro Feod'.*

**S** H. Gen' und Clericorum R. H. Militis Capitalis Clerici Dñe Regine ad p'tita in Cur' ipsius Dñe Regine coram ipsa & Regina irrotuland' Magn' juxta libertat' & privileg' ejusdem Curie p' hujusmodi Capital' Clerico & ejus Clericis a tempore cujus contrarij memoria hominum non existit usitat' & approbat' in p'sona sua queritur de G. F. in custod' War' &c. de p'tito quod reddat ei centum solidos quos ei debet & injuste detinet p' eo videlicet qd' cum secundu' consuetudinem in p'dicta' Cur' Domine Regine coram ipsa Regind' a tempore cujus contrarij memoria hominum non existit usitat' & approbat' omnes & singuli Clerici hujusmodi Capitalis Clerici p' tempore existend' a toto tempore supradicta' usi fuer' & consueverunt ad impetrand' & p'sequend' tam extra Cur' Cancell' die Dñe Regine nunc & Progenitoru' suoru' nup' Regu' & Reginaru' Anglie quam extra p'dicta' Cur' die Dñe Regine coram ipsa Regind' & Progenitoribus suis p'dicta' p' quibusdam ligeis dicta' Dñe Regine nunc & Progenitoru' suoru' p'dicta' qui hujusmodi Clericos Capitalis Clerici p'dicta' retinere vellent quecumq'

Debr.



quęcunq; hęvia dicit' Dñe Regine & Pro  
genitoꝝ ſuoꝝ p̄dicit' coram dicit' Dña Re  
gina & Progenitoribus ſuis p̄dicit' ac ad  
eadem hęvia in p̄dicit' Cui' Dñe Regine  
nunc & Progenitoꝝ ſuoꝝ coram dicit' Do  
mina Regina nunc & Progenitoribus  
ſuis p̄dicit' p̄ſequens tanquam Attorꝝ  
eorundem ligeoꝝ dicit' Dñe Regine nunc  
& Progenitoꝝ ſuoꝝ p̄ quos huiusmodi  
Clerici retene ſoꝝent ad p̄ſequens & de  
ſend in eadem Cui' dicit' Dñe Regine &  
Progenitoꝝ ſuoꝝ p̄dicit' coram iſſis Re  
gin & Progenitoribus ſuis p̄dicit' p̄ tem  
pore exiſtens quęcunq; p̄lita negotia &  
actōes quozumcunq; ligeoꝝ dicit' Dñe  
Regine nunc & Progenitoꝝ ſuoꝝ p̄dicit'  
in eadem Cui' p̄ſequens ſibe defendens  
qui huiusmodi Clericos huiusmodi Capi  
talis Clerici ad p̄lita negotia ſibe actōes  
quozumcunq; ligeoꝝ dicit' Dñe Regine in  
eadem Cui' p̄ſequens ſibe defendens reti  
nere vellent tanquam Attorꝝ eozundem  
ligeoꝝ dicit' Dñe Regine & Progenito  
rum ſuoꝝ p̄dicit' p̄ quos huiusmodi Cle  
rici huiusmodi Capitalis Clerici retene  
ſoꝝent Ac etiam cum p̄dicit' S. decimo  
die Martij Anno Regni dicit' Dñe Regine  
nunc p̄ime apud Paroch Sancti Martini  
in Campis in Com̄ Midd retinuiſſet ip  
ſum S. tunc & adhuc ac continue poſtea  
huculq; exiſtens un̄ Clericoꝝ Capitalis  
Clerici p̄dicit' eſſendi Attorꝝ ejuſdem S.  
ad impetrans & p̄ſequens p̄ & ſub nomine  
ejuſdem S. in p̄dicit' Cui' dicit' Dñe Re  
gine coram iſſis Regin apud Weſtm p̄e  
dicit' quoddam hę ejuſdem Dñe Regine

de



Latitat versus quendam T. W. in  
 eadem Cur dia' Dñe Regine coram ipsis  
 Regiū retornabile quamdiu ambabus  
 partibus pdia' placeret capiendo inde de  
 eodem G. p hzevi pdia' de antiquo debite  
 solubil ac capiend inde de eodem G. p  
 prosecuton inde rasonabilia mis & ex-  
 pens p ipsum S. in & circa psecuton  
 ejusdem hzis necessarie expendie & erro-  
 res ac ultra mis & expens ill tres solidi  
 & quatuor denar p feod Altoznd ipsius  
 S. p qualibet actione p quolibet termino  
 ejusdem S. hze pdia' psequer virtute  
 ejus retentionis idem S. a pdia' deci-  
 mo die Martij Anno primo supradia' p  
 quos terminos tunc ppor' sequend extie  
 Altoznd ejusdem G. ac infra idem tempus  
 psecue fuit extra pd Cur dia' Dñe Regiū  
 coram ipsa Regiū seperat hzia de Lac  
 ejus pdia' T. retornabil Termino Pasche  
 tunc ppor' sequend ac supinde de eodem  
 Termino Pasche quatuor seperat Billas  
 sub nomine ejusdem G. ac ut ejus Altoznd  
 sup quatuor seperat actionibus in plito  
 transgi sup Casum in pd Cur dia' Dñe  
 Regine coram ipsa Regina versus pfac  
 T. exhibuit ac ealdem quatuor seperat  
 Billas sup pdia' quatuor seperat actioni-  
 bus sub nomine ejusdem G. ac ut ejus  
 Altoznd in pdia' Cur dia' Dñe Regine  
 coram ipsa Regiū versus pfac T. pdia'  
 Termino Pasche & Termino Sancte Tri-  
 nitatis tunc ppor' sequend in tunc psecue  
 uisset qd seperat extie sup eisdem qua-  
 tuor seperalibus actionibus p Patriam  
 & Billas in Com Wilts triand eodem  
 Termino

Debt.

**Termino** S<sup>te</sup> Trinitatis legitimo modo  
 juncti fuissent eidemq; S. p Termino  
 illos in exhibend p<sup>di</sup>ca' sepe<sup>ra</sup>l B<sup>ij</sup> su  
 p<sup>di</sup>ca' sepe<sup>ra</sup>l actonibus versus p<sup>la</sup>e G  
 ac in sepe<sup>ra</sup>l Recor<sup>u</sup> de P<sup>ri</sup>us in p<sup>di</sup>  
 p<sup>di</sup>ca' quatuor sepe<sup>ra</sup>l Actonibus ad M  
 filas tunc p<sup>re</sup> sequend in p<sup>di</sup>ca' Com Wilt  
 triand p denar p ipsum expendie & ero  
 gar ac p feod<sup>u</sup> Mito<sup>u</sup> & p feod<sup>u</sup> Cleri  
 ipsius S. p<sup>di</sup>ca' duos Terminos supe  
 p<sup>di</sup>ca' quatuor sepe<sup>ra</sup>l actonibus p<sup>di</sup>  
 (so much Money) aretro fuer & adhuc in  
 solue existunt p quod Acto accerbit eiden  
 S. ad exigend & habend de p<sup>la</sup>e G. &  
 (ut in al.)

Vide Hanf. 69, 77. Cl. Man. 277. Br  
 Met. 150.

*Narr'* in Debt upon a Judgment reco  
 vered in the Queen's Bench.

ff. **A**. B. queritur de C. D. in custo  
 A. Mar<sup>i</sup> Ec. de plito qd reddat e  
 vigine & un<sup>o</sup> libr & un<sup>o</sup> solid legalis M  
 nete Anglie quos ei debet & injuste det  
 net p eo videt qd cum p<sup>di</sup>ca' A. alias sci  
 Termino Sancti Michaelis Anno Regi  
 D<sup>ne</sup> Anne nunc Regine Anglie, Ec. de  
 cimo in Cur Dom Regi<sup>u</sup> coram ipsa Re  
 gi<sup>u</sup> hic scit apud Westm in Com Mid  
 p cons ejusdem Cur recuperasset versu  
 p<sup>di</sup>ca' C. D. p nomen C. D. (Ec.) tat  
 quoddam debit<sup>u</sup> triginta Libr quam  
 ginti & un<sup>o</sup> solid qui eidem A. in p<sup>re</sup>dic  
 Cu

Cur die Dom Regine coram ipsa Regia  
adjudicæ fuit p damnis suis que su-  
stinuit tam octone detentio debiti illius  
quam p mis & custag suis p ipsum circa  
betam suam in ea parte appositæ unde  
p dia' C. condict' est put p Record & Pro-  
ced' inde in eadem Cur dia' Dom Regine  
coram ipsa Regia apud Westm p dia' re-  
solvend' liquet manifeste quod quidem judi-  
c' in plenig suis roboræ & effectu pmanet  
minime reblas seu adnullæ idemq' J. N.  
Executio suam pzed' blus pfac C. de de-  
bitis & dampnis pzed' nondid assere fuit p  
quod Acto accrebit eidem A. ad exigend'  
& habend' de pfac C. debitid & dampna  
pzed' in toto se attingend' ad pzed' triginta  
Libr' & unum solidi pzed' tamen C. It-  
er sepius requisitæ, &c. pzed' 3 l. 1 s. pfac  
A. nondid solvit sed hucusq' solte omnino  
contradixit & adhuc contradia' ad damp-  
num ipsius A. 10 l. Et inde pduc Se-  
dam &c.

See Presidents in *Banco Regis*, *Hern* 303.

*Ash.* 203. *Cl. Man.* 221, 223. *Reads Dec.* 248.

*Bro. Vad.* 164.

Simile sur non pros' in *Banco Regis*,

*Winch* 351. *Tho.* 118. 2 *Mo. Intr.* 225, 226.

Super Judic' in Com' Banco, *Thomp.* 116.

*Bro.* 157. *Read's Dec.* 249. 2 *Mod. Intr.*

227, 227.

Simile sur non Pros' in Com' Banco, 2

*Bro.* 72. *Ash.* 213.

Sur Recovery in Cur' Inferior', 1 *Mo.*

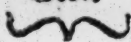
*Intr.* 150. 2 *Mo. Intr.* 228. *Thomp.* 127. *Bro.*

*Vad.* 164, 165. *Winch* 183, &c.

Another



Debt.



Debt upon a Judgment recovered in the  
Common Pleas.

**I. H. W.** Queritur de A. B. & C. D. Die civie L. in custodia Mari &c. de placito quod reddant ei viginti libe quas ei debent & injuste detinent p eo videlt quod cum pzed W. alias scilicet Termino Sancte Trinitate Anno Regni Dom Regis nunc secundo Cur de Comuni Banco eadem Cur apud Westm in Com Midd tunc & adhuc existit p cons ejusdem Cur recuperavit blaquendam R. D. 201. p dampnis suis que sustinuit tam occasione cujusdam transsup casum eidem W. p pfac R. nupit lae quam p mis & custag suis p ipsam circa Sextam suam in ea parte apponunde idem R. condicta fuit put p recop & pcelis inde in eadem Cur de Comuni Banco apud Westm pdicta in Com Midd pdicta resident plenius liquet & appare Cumq etiam post redditione Judicii p scilicet eodem Termino Sancte Trinitate Anno secundo supradicto idem W. p recuperatione dampni pzed virtute Judicii pzed habens in pzed Cur de Comuni Banco apud W. pzed tunc & adhuc existit impetrasset & psecutus fuisset de sup Judicio pzed versus pfac R. quodam breve de cap ad satisfaciend eisdem Die London directa p quod quidem breve idem Domina Regis precepit eisdem Die London quod caperent pzed R. D. si in

bene fuerit in Balliva sua & cum salvo  
custod ita quod haberent corpus ejus co-  
ram Justic Domine Regine apud Westm  
a die Sancti Michaelis in tres septima-  
nas extunc p̄or' sequend ad satisfaciend  
p̄ed' W. de p̄ed' 201. p dampnis suis  
que sustinuit occasione cujusdam transgē  
sup casum unde convicte fuit & quod ha-  
berent tunc breve ill quod quidem breve  
idem W. postea & ante Retornd ejusdem  
brevis scit tali die & anno vicesimo supra-  
dicto apud L. p̄dicta' videlt in Paroch'  
Beate Marie de Arcubus in Warda de  
Cheap deliberavit p̄fac A. B. & C. D.  
tunc & adhuc Dic civitatis London p̄e-  
dicta' in forma juris requend' virtute cu-  
jus quidem brevis p̄dicta' A. & C. tunc &  
adhuc Dic civitatis London p̄dicta' existend  
postea & ante Retornd h̄is p̄dicta' scit vi-  
cesimo die Decembris Anno vicesimo  
quarto supradicto apud L. p̄ed in Paro-  
chia & Warda de C. p̄dicta' p̄dicta' R. D.  
corpus ejus cepit & arrestaverit ipsamq  
R. D. in custod' suis in Executon p  
dampnis p̄ed' huer' & detin ipsam R. D.  
in custod p̄fac A. & C. tunc & adhuc Dic  
civitatis London p̄ed' in Executone p  
dampn p̄ed' detene existend indem A. &  
C. tunc & adhuc Dic civitatis L. p̄ed' sic  
ut p̄fertur existend eundem R. D. postea  
scit tali die anno vicesimo supradicto  
apud L. p̄ed in Paroch' & Warda p̄ed'  
extra custod ipsor A. & C. ad tunc & ad-  
huc Dic civitatis L. voluntarie ob largum  
quo voluit ire & evadere p̄miser' eodem  
de dampn p̄ed' minime solue seu sa-  
tisfac

tisfact' existend' p quod' Acto accrebit et  
dem quer' ad exigend' & habend' de pfa  
N. & C. Die civitat' N. pzed' 20 l. pzed'  
tamen N. & C. tunc & adhuc Die civita  
London pzed' licet sepius requisie &  
pzed' 20 l. eidem W. nondum solver' ne  
eorum alter solvit sed illi ei hucusq' solvet  
omnino contradixer' & adhuc contradi  
ad dampnd ipsius quer' 12 l. Et inde  
duc' Sextam, &c.

Debt for refusing to take Bail upon the  
Statute 23 H. 6.

Civie N. R. S. qui tam pro Dom  
R. Regind quam p seipso se  
quitur queritur de N. B. in custod' & ar  
Warese Dom Regine coram ipsa Regi  
existend' de pito qd reddat dia' Dom  
Regine & pfae R. quadragine Libe lega  
lis Monete Anglie quas die Dom R  
gine ac eidem R. debet & injuste detine  
p eo videt' quod cum p Statutum in Pa  
liamento Dom Hen' nup Regis Angli  
Sexti post Conquestum apud Westm  
Com' Midd' vicesimo quinto die Feb  
Anno Regni sui vicesimo tertio tene ed  
inter al' p evitacione perjurij extorcion  
& oppressionis que tunc hic fuer' & fun  
sent in hoc Regno Anglie p Die Subvi  
& eorum flicos Coronatores Senescha  
franches Ballivos & custod' Prisonar  
alios Officiae in diversis Com' hujus  
Regni Anglie ordinac & inactitac tunc  
Authozitac Parliamenti pzed' qd nullus



Die demitteret ad firmam aliquo modo  
Com suu vel aliquem Ballivator Hun-  
redor sive Wapentag suoꝝ. nec qd pꝛed'  
Die Subbie Ballibus franchises nec ali-  
quis alius Ballibus retoꝛnar' sup ali-  
quod hꝛebe vel pꝛeꝛptum eis direc' retoꝛ-  
mand' aliquas inquisitiones in aliquo pa-  
nello supinde fiend' aliquos Ballibos of-  
ficiar' vel serviend' aliquibus officiariorum  
pꝛed' in aliquo panello suo p ipsos sic  
fiend' nec qd aliquis pꝛed' Officiariorum  
Ministroꝝ pꝛedicoꝝ p occasionem sive  
sub colore officij sui caperet aliquam  
aliam rem p seipsos vel p aliquam aliam  
personam ad eoꝝ usum pꝛficiuū vel com-  
moditae de aliqua personā p ipsos vel eoꝝ  
aliquem arrestand' sive attachand'  
nec de aliquibus aliis eoꝝum p par-  
tend' aliquam arrestationem sive Attachia-  
mentē faciend' p corpora eoꝝum nec p ali-  
quam aliam personam p ipsos aut eoꝝ  
aliquam vigore sive colore officij sui ar-  
restae sive attachiae p sine feod' Sec' pꝛi-  
sona manucapꝛone vel dimissione ad Bal-  
livum vel ostendend' aliquod easiamene  
sive favorem alicui tali psonae sic arrestae  
vel arrestand' p regard' sive pꝛeficio suis  
nisi talia que sequuntur videlt p Die vi-  
gine denar' Ballivo qui facit arrestatō-  
nem vel attachiamenē quatuor denar' &  
Goalatoꝝ si Prisonarius commissus fu-  
isset Goale sue quatuor denarios Ac  
quod nul' Die Subbie Clerici Die Se-  
schallus vel Ballibus franchises Ser-  
viend' vel Coronator caperent aliquid co-  
loꝝ officij sui p seipsum vel p aliquam

## Of Declarations.

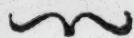
aliam psonam ad ejus usum de aliqua  
 psona p retroꝝ vel panello fiend & p co  
 pia panell quatuor denarios Et qd pꝛe  
 Die ac omnes alij Officiarij & Ministꝛi  
 pꝛeꝛ extra pꝛisonam dimitterent omni  
 modas psonas p ipsos sibe eozꝝ aliquem  
 arrestatas sibe in eozꝝ custod' existend  
 goze alicujus hꝛis bille Warranti in ali  
 qua accone psonal sibe p causa Indicta  
 menti transge & sup rasonabilem securi  
 tatem de sufficiend psonis habend sufficiem  
 infra Com ubi talis psona sibe plone  
 in Ballium sibe manucaptonem traderem  
 ad custodiend' suos dies in talibus locis  
 put talia hꝛia Bille sibe Warrane requi  
 rerent [talibus psona vel psonis que  
 sent in custod' eozꝝ p condemnacionem  
 execuconem cap' Atlagatum excommu  
 nicacionem securitatem pacis & omnibꝝ  
 talibus psonis qui custod' committeret  
 tur per special' mandae alicujus Justici  
 & vagrantibus laborae secundum forma  
 Statuti laboratorum servire recusand tan  
 tummodo excepte] Cumqꝫ etiam p Sta  
 tutum pꝛeꝛ inter al' ordinat & stabil  
 fuit p Auctoritatem ejusdem Parliamen  
 qd quilibet Die Subbie Clerici Balli  
 custod' Goal Coronatoꝛes Senesch  
 Ballibi Franches sibe aliqui alij Offici  
 rij sibe Ministꝛi qui facerent contrariu  
 ordinaconis illius in aliqua parte pe  
 derent parti in hac parte dampnificae  
 gravae dampn' sua triplicie & forisfacte  
 Summam quadraginta libe quolibet te  
 poꝛe quo ipsi vel aliquis eozꝝ facerent  
 vel facerent contrariu inde unde De  
 Regi

Regina heret unam medietatem appli-  
cand in usum hospitij sui & non aliter, al-  
teram medietatem inde pars heret que p-  
inde psequi voluerit put p idem Statu-  
tum inter alia plenius liquet & apparet  
Cumq; etiam quidem J. S. (tali die)  
anno Regni die Dñe Regine nunc secundo  
psecut fuisse extra Cur die Dom Regine  
Cancellar sue apud Westm in Com Midd  
tunc existend quoddam breve ipsius Dom  
Regine pfacto A. B. & quibuldam C. D.  
E. F. (Ec.) directu recitand p idem breve  
quia A. S. & C. W. quibus p publi-  
cas Proclamações p Vic Com Midd in  
liberis locis ejuldem Comitae virtute  
is illius die Dom Regine eidem Vic  
in ea parte inde direct' fact' ex parte ip-  
ius Dom Regine pceptu fuit quod iidem  
A. & C. sub pena ligeanciaru suaru co-  
am ipsa Regid in Cancellar sua ad  
calem diem jam pteritu ) psonalie cont-  
terent mandatu tamen ipsius Dom  
Regine in ea parte parere manifeste con-  
mpler Ideo eidem A. B. C. D. E. F.  
(Ec.) conjunctim & divisim mandaver qd  
fac A. & C. ubicunq; invener forer in-  
a Regnu die Dñe Regine Anglie ipsos  
quam Rebelles & leg ipsius Dñe Re-  
ne contemptor Attach vel Attach face-  
nt ita qd eos haberent coram eodem  
Dom Regid in Cancellar sua pdict' in  
tab Sancti Hillarij tunc ppor' futur  
icunq; tunc fuerit ad respondend die  
Dom Regid de contempe ipsius Domine  
ic' quam de aliis que eis ibidem obji-  
entur & ad faciend ulterius & reci-  
piend



Debt.

piendi quod Cui illa ipsius Dñe Regine  
 consideraverit in ea parte virtute cuius  
 quidem hzevis in forma pdice a pdice  
 Cui Cancel emanat pdice W. virtute  
 hzevis pdice postea scilicet (tali die) Anno  
 secundo supradicto apud civitatem L. in Com  
 civitatis pdice pdice R. S. cepit attachiavit  
 & arrestabit postquam arrestacionem seu  
 attachiamenē pdice habie & facit scilicet  
 (tali die) Anno secundo supradicto apud  
 civitatem L. in Com ejusdem civitatis idem  
 R. parat fuit & adtunc & ibidem obediens  
 ad inveniens sufficientem securitatem videlicet  
 quosdam G. D. de civitate L. Gen &  
 J. R. de eadem Mercet qui quidem G.  
 D. & J. R. adtunc habuerunt sufficientem in  
 civitate pdice qui cum pstat R. S. obli  
 gari & manuciari voluissent in aliqua  
 summa rationabilē qd pdice R. S. custo  
 diret diem & locum suum pdice putat  
 pdice hzeve exigeret & requirebat Et licet  
 idem R. non fuit arrestatus seu imprisonatus  
 p aliquam condemnacionem executionem  
 Capias Utlagatum sive Excommunicatum  
 securitatis pacis nec commissus fuit custod  
 specialē mandatū alicujus Justicie nec ad  
 tunc fuit vagrans contra formam Sta  
 tuti de laboratoribus servire recusatū p  
 dia tamen A. B. Statutum pdice in  
 nime ponderans nec pena in eodem al  
 qualiter verens ipsum R. in custod sua ad  
 tunc & ibidem ut pferitur virtute hzevi  
 pdice existens extra custod sup rationab  
 lem securitatem ad custodiendū diem suū  
 & locum juxta tenorem & exigentiam  
 hzevis pdice ad Vallid trahere seu de  
 liberat



liberare adtunc & ibidem recusabit sed  
ipsum R. apud civitatē L. predictā in Com  
cibie p̄dictā contra vad & p̄leg p̄ spatium  
decem dierum extunc p̄ox' sequen' in pri  
sona ibidem custodivit contra formam  
& effectū Statuti p̄dicti nup̄ Regis Henr  
Septi Anno vicesimo tertio sup̄radicto  
nuper edic & p̄vis ratione cuius idem  
A. B. quadragine Librē p̄fac Dom  
Regin' & eidem R. S. qui octone p̄dictā  
deteriorat gravat & molestat existit fo  
risfecit p̄ quod actō accrebit eidem R.  
qui tam &c. ad habend' & exigend' de p̄fac  
A. B. p̄ p̄ed Dom Regina & p̄fac R. qui  
tam &c. p̄ed' quadragine librē p̄ed tamen  
A. B. licet sepius requisit &c. p̄edice  
quadragine librē eidem Dñe Regine & p̄fac  
R. qui tam &c. seu eorum alteri nondū  
solvit sed ill die Dom Regina & eidem R.  
qui tam &c. solhe omnino contradixit &  
adhuc contradic ad dampnū ipsius R. qui  
tam &c. cen: d librē & inde tam p̄ eadem  
Dia Regin' quam p̄ seipso p̄duc Sext' &c.

See the like President, *Hansf.* 81. *Ash.*  
69, 79.

The last President will serve for an Acti  
on of Debt upon the same Statute against a  
Sheriff, &c. for Extortion.

Write as before to the Words——\*

Quod quilibet Die Subbie Clici Die  
Ballivi Coalarii Coron' Seneschalli  
A a 4 Ballivi

## Of Declarations.

Ballivi Franches seu aliqui alij Officia-  
rij seu Ministri qui facerent in contrariu  
ordinaçoni p̄dicta in aliquo puncto inde  
pderent parti in ea parte dampnificae seu  
gravae dampna sua in triplo & forisla-  
ceret Summam 40 l. quolibet tempore  
quo ipsi seu eorū aliquis facerent aut fa-  
ceret in contrariu inde in aliquo puncto  
ejusdem Unde Dom̄ Regiu heret unam  
medietatem ad usum hospitij sui appli-  
cand & p nullo alio modo Et pars que  
psequi voluit alteram medietatem put in  
eodem Statuto inter alia plenius conti-  
netur p̄dicti C. H. & C. W. tunc Dic-  
ville p̄dicta extitissent p̄dicta W. B. p su-  
spicione felonie ceper ac eundem W. Goale  
Dom̄ Regiu ville sue p̄dicta ibidem cu-  
stodiend commiser ac ipsum ibidem custo-  
dier ac ipsum W. B. in Balliu trader  
noluer quousq̄ p̄dice W. (tali die & anno)  
apud vill R. 48 s. & 8 d. eisdem Die sol-  
bisset quos quidem 48 s. 8 d. iidem nu-  
Die de ipso W. eisdem die & anno p tra-  
dizione ejusdem W. B. in Balliu ibi  
recepit contra formā Statuti p̄dicta  
quod actō accrevit eidem W. B. ad ex-  
gend & habend de p̄fac C. H. & C. W.  
p̄fac Dña Regina & p seipso p̄dicta 40  
p̄dicta tamen Def. (ac.) ad dampnu &c.

Vide Rob. 413. Rast. 337.

Simile vers<sup>o</sup> Goalarum, Ibid.

Vide Rast. 191. Ash. 97.

Against



Against a Bailiff of an Hundred for re-<sup>Debt.</sup>  
ceiving 2 s. 4 d. upon an Arrest.

**P**ædictus tamen J. Statutum p̄dict<sup>Simil.</sup>  
minime ponderans (tali die & anno)  
Ballibus trium Hundr de C. in Com  
p̄dict<sup>Simil.</sup> eaq; itineratū adtunc existens pre-  
textu cujusdam hris ejusdem Dñe Re-  
gine de plito transgr̄ Dic Com p̄dict<sup>Simil.</sup> de  
capiend p̄dict<sup>Simil.</sup> W. ad Sec<sup>Simil.</sup> cujusdam C.  
direct<sup>Simil.</sup> a Cur̄ dict<sup>Simil.</sup> Dñe Regine ad plita  
coram ipsa Regiā tenend emanatū ac cu-  
jusdam Warranti superinde eidem Bal-  
libo p̄ p̄fac<sup>Simil.</sup> Dic similie direct<sup>Simil.</sup> apud N. in-  
fra Libertat<sup>Simil.</sup> p̄dict<sup>Simil.</sup> arrestabit & attach  
p̄dict<sup>Simil.</sup> W. ac duos solid<sup>Simil.</sup> & 4 d. p̄ feodo  
suo in ea parte ad usum ipsius J. prope  
de p̄fac<sup>Simil.</sup> W. adtunc & ibidem cepit contra  
formam Statuti p̄dict<sup>Simil.</sup> p̄ quod Acto ac-  
crebit eidem W. qui tam &c. ad exigend  
& hend<sup>Simil.</sup> de p̄fac<sup>Simil.</sup> J. &c.

Plaintiff *qui tam* asks Damages besides the  
Forfeiture.

Per quod Acto accrebit eidem N. qui  
tam, &c. ad exigend & hend<sup>Simil.</sup> de p̄fac<sup>Simil.</sup> J.  
p̄ dice Dña Regina & p̄ seipso 40 l. ac 15 l.  
p̄ dampnis suis p̄dice in triplo p̄ eundem  
J. I. secundū formam Statut<sup>Simil.</sup> p̄dice fo-  
risfact<sup>Simil.</sup> de quib<sup>Simil.</sup> 40 l. idem N. per unam  
medietat<sup>Simil.</sup> juxta formā Statuti p̄dice &  
tam p̄ Dña Regina quam p̄ seipso per ad-  
visamentū & auxiliū Cur̄ hic in p̄missis  
Et

Debt.

**W** Et debitum Legis Processus illius ipsius  
J. L. fieri ad respondendum tam die Dñe Re-  
gine quam eidem P. qui tam &c. in pre-  
missis &c.

Debt, upon the Statute *de Anno secundo  
Edvardi Sexti* for treble Value of  
Tyrthes.

**N. J. W.** nup de &c. ad respondendum f. P.  
p 181. — Et unde idem f. p. C.  
P. Attorñ suum die qd cum idem f. vi-  
cesimo septimo die Septem Anno regni  
Dñi Regis nunc decimo septimo & diu  
antea fuisset & adhuc existit pprietarius  
Rectorie Ecclesie Parochial de P. in Com  
pdice Cumq; etiam pdice J. pdicto 27  
die Septem Anno 17 supradicto fuisset  
occupator 16 Acr terre cum ptin jacent  
& existent in P. in Com pdict infra Pa-  
roch de P. pdict fines limites & loca deci-  
mabil ejusdem Paroch de quibus quidem  
16 Acr terre cum ptin decime annuatim  
crescent pbenient sive renovand dice Rectorie  
de P. pdice de jure spectabant & pti-  
nebant ac infra 40 annos pr' ante quar-  
tum diem Novem Anno Regni Dñi Ed-  
vardi nup Regis Anglie sexti secundo in  
suis ppe generibus & speciebus de jure  
fuer pstie & solue Rectori Ecclesie Para-  
chial de P. pred' p tempore existent sive  
ppietar Rectorie Ecclesie Parochial de P.  
pdice sive ejus firmario sive deputat Re-  
ctorie ill seu decimarum inde p tempore ex-  
istent pdictor J. sic occupator pdictarum 16  
Acr

Act terre cum pertin in forma pdice exi-  
 stent ac similiter eodem f. Rectori Ecclesie  
 Parochial de P. pdice ut prefertur exi-  
 stent idem J. existens sub die dicta Domi-  
 Regis nunc pdicto 23 die S. anno 17 su-  
 pradicto blada hordei videlt 50 caretac  
 hordei eodem anno crescent super 12 Act  
 de pd 16 Act terre cum prin' aceriam bla-  
 da avenarum videlt 30 caretac avenarum  
 eodem anno crescent super 4 Act de pdice  
 16 Act terre resid cum prin' inestuit &  
 unibit & post messionem & unionem blado-  
 rum granorum pdice super pdice 16  
 Act terre cum prin' eodem Anno crescent  
 pd J. non dividebat nec extrapofuit de-  
 cimam partem granorum pdice a novem  
 partibus eorundem nec p eisdem decimis  
 cum eodem f. adtunc & adhuc proprieta-  
 rio Rectorie Ecclesie Parochial de P. pd  
 ut pfertur existen' composuit seu alie a-  
 greabit set pdice J. pdicta blada hordei  
 ac pdicta blada avenarum post messionem &  
 unionem inde scilicet pdicto 27 die S.  
 Anno 17 supradicto absq aliqua divisione  
 sive extrapositione decime partis eorun-  
 dem a novem partibus inde seu aliqua  
 compositione vel agreamene proinde cum  
 pfat f. p eisdem decimis fact' apud P. p-  
 dicta infra pdice Paroch de P. pdice a pd  
 16 Act terre cum prin' ubi blada illa  
 crescebant cepit & asportabit contra for-  
 mam statuti in huiusmodi casu edic &  
 probis Et idem f. ulterius die qd deci-  
 ma pars pdice granorum hordei p pdice  
 J. ut pfertur capere & asportare tempore  
 capton & asportacion' eorundem valebat  
 cene



Debt.

cene solid Et decima pars pdice granoꝝ abenarum pdice J. ut pꝛefertur cape & alpoꝛtat' tempore captoꝝ & alpoꝛtatō eozundem valebat 20 s. que quidem sepā summd in toto se atting' ad 6 l. p quod Acto accrebit eidem f. ad exigend' & hēnd de pꝛae J. pdict' 18 l. juxta foꝛmam Statue pdice videt' triplicem valozem decimarum granoꝝ pdice sic ut pꝛfertur per pdice J. contra foꝛmam Statue pꝛedice cape & alpoꝛtat' pdict' tamen J. licet sepius requisit', &c.

See Presidents, 2 Bro. 32. Thomp. 83, 85. 94, 135. Bro. Red. 458. Reads Dec' 158. 163. Co. Ent. 161. Hern. 303. 2 Mod. Intr. 167. Sur Stat. de 12 Car. 2. Pro quintis partibus vocat' Fifths, Thomp. 76.

*Aliter* reciting the Statute for Tythe of Hay.

**N.** S. &c. ad respondend' T. f. Cler  
30 l. &c. — Et unde idem T. p  
H. G. Ante suum die qđ cum in Statuto in Parliament' Dñi Edm nuper Regis Anglie sexti apud Westm in Com Midd quarto die Novem Anno Regis sui secundo tene edie inter al' inactitae fuit auctoritate ejusdem Parliamenti qđ quilibet subdie dice Dñi Regis extunc deinceps veraciter & jussu absq fraude dolo vel cohibina divideret extraponeret redderet & solberet omnes pdiales suas decimas in suis pꝛi generibus & speciebus Anglice

in

in their proper kinds sicut surgerent cre-  
 scerent & contingerent in talib<sup>9</sup> modo &  
 forma qual<sup>r</sup> de jure reddit<sup>9</sup> & solut<sup>9</sup> fuissent  
 infra 40 annos pr<sup>9</sup> ante edicionem statuti  
 illi vel de jure sive ex consuetudine solvi  
 debuissent ac qd nulla persona extunc de-  
 inceps caperet asportaret vel abcarriaret  
 aliquas hujusmodi & consiles decimas  
 que reddit<sup>9</sup> vel solue fuissent infra eod<sup>em</sup>  
 40 annos vel de jure solvi debuissent in  
 loco vel locis decimalibus in & de eisdem  
 antequam ipse iuste dividisset & extrapo-  
 suisset p<sup>9</sup> decimis inde decimam partem  
 earundem aut alie agreasset p<sup>9</sup> eisdem de-  
 cimis cum Rector<sup>9</sup> Vicario sive al<sup>9</sup> posses-  
 sessor<sup>9</sup> pprietat<sup>9</sup> Anglice Owner, vel firmat<sup>9</sup>  
 earundem decimarum sub pena forisfa-  
 ctu<sup>9</sup> triplicis valoris decimarum sic cape &  
 asportat<sup>9</sup> put per eundem actum inter al<sup>9</sup>  
 plenius apparet Cumq<sup>ue</sup> etiam idem T. est  
 & per duos annos jam ule elaps<sup>9</sup> fuit Vi-  
 carius Ecclesie Parochial<sup>9</sup> de S. cum  
 pertin<sup>9</sup> ad quem omnes & singule decim<sup>9</sup>  
 teni infra Paroch<sup>9</sup> pdict<sup>9</sup> finesq<sup>ue</sup> limites &  
 loca decimabil<sup>9</sup> ejusdem duram tempore  
 pdice crescent<sup>9</sup> renoban<sup>9</sup> & contingend<sup>9</sup> ut  
 Vicario Ecclesie Parochial<sup>9</sup> pdice de  
 jure reddi & solvi debuissent ipsos T. sic  
 Vicario Ecclesie pdice existen<sup>9</sup> pdice S.  
 existend<sup>9</sup> subdie Dom<sup>9</sup> Regis nunc ac per  
 totum tempus pdice fuit occupato<sup>9</sup> decem  
 Aer<sup>9</sup> prati & ducent<sup>9</sup> Aer<sup>9</sup> pastu<sup>9</sup> cum per-  
 tin<sup>9</sup> jacen<sup>9</sup> & existen<sup>9</sup> infra Paroch<sup>9</sup> de S.  
 finesq<sup>ue</sup> limites & loca decimabil<sup>9</sup> ejusdem  
 Paroch<sup>9</sup> decime grani de & ex eisdem ten-  
 ris

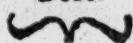
tis cum prin' crescen' renoban' pbenien' &  
 contingen' infra 40 annos p'or' ante p'd  
 quartum diem P. anno Regni Domi nup  
 Regis Edri sexti secundo sp'adito in suis  
 p'p' generibus sicut crescebant & contin-  
 gebant in & super eisdem reddit' & solut'  
 fuissent & de jure reddi & solvi debuer' p  
 occupator' eorundem ten'torum cum pertine  
 Vicario Ecclesie Parochial' p'dict' sive ej'  
 firmario aut deputat' vicarie ill' seu deci-  
 marum inde p' tempore existen' p'dictor'  
 S. sic occupator ten'torum p'dict' cum prin'  
 existen' idem S. herbam super p'dict' 210  
 Acr' p'ati & pastur' Anno Regni Domi  
 Regis nunc decimo crescen' calcabit &  
 fenum videlt 300 carecat' feni inde confe-  
 cit Idemque S. herbam p'dict' ut p'fe-  
 fertur calcat' & in fenum confect' ante a-  
 liquam divisionem sive extraposition' feni  
 p'dict' & absque aliquo agreeamento per  
 eundem S. p'ro eisdem decimis aut ali-  
 qua inde parcel' cum eodem T. Vicario  
 Ecclesie Parochial' Paroch' p'dict' hit a  
 p'dict' 210 Acr' p'ati & pastur' cepit &  
 asportabit contra formam statuti p'dict'  
 Et idem T. in facto die quod decima  
 pars feni p'dict' sic ut p'fertur a nobem  
 partibus resid' ejusdem feni minime di-  
 visat' seu extraposit' & p' p'dict' S. in forma  
 p'dict' cap't & asportat' tempore cap'ton'  
 asportaton' ejusdem valebat 10 l. p' quod  
 ac vigoze statut' p'dict' Acr'o accrebit ei-  
 dem T. ad exigend' & h'end' de p'fat' S.  
 p'dict' 30 l. videlt triplicem valorem eor-  
 undem decimarum sic ut p'fertur cap't



## Of Declarations.

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Debt.



& asportat contra formam statuti predicti  
predictus tamen, (&c.)

See *Winch.* 209. *Rob.* 201.

*De Decimis lini*, Bro. Vad. 243.

*De Decimis subbosci & ligni*, Thomp. 119.

2 *Mod. Intr.* 170. &c.

Declaration in Debt where the Defen-  
dant is bound by Statute-Staple.

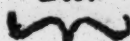
**A. N.** **W.** queritur de **A. B.** in cu-  
stod. **Marr'**, &c. de placito qd  
reddat ei 100 l. legalis (&c.) quas ei de-  
bet & injuste detinet p eo videt qd cu p  
a. tal' die anno & loco (&c.) p quoddam  
scriptum suum obligatorium sigillo ipsi  
a. (&c.) Cur & Dom Regim' nunc hic o-  
stendit cujus dat est (&c.) cognovit se te-  
neri & firmiter obligari p a. in p  
100 l. solvend eidem **M.** cum inde requi-  
sit esset Et nisi fecit idem **A.** vult qd cur-  
ret versus cum & heres suos pena statuti  
Stapule p Merchandizis in eodem emp-  
tis & vendit predict tamen Def. licet se-  
pius requisit', &c.

See *Thomp.* 123. *Hans.* 80.

In Debt upon a Recognizance acknow-  
ledged in *Chancery*.

**A. N.** **M.** queritur de **T. M.** in  
custod. **Marr'**, &c. de pli-  
to qd reddat ei 100 l. legalis **Monete**  
**Anglie**

Debr.



Anglie quas ei debet & iniuste detinet pro  
eo videt qd cum pdict' vicesimo die (Et.)  
Anno (Et.) coram eadem Dom<sup>o</sup> Regi<sup>n</sup> in  
Cancellar' sua (eadem Cancellar' apud  
Westm<sup>onasterium</sup> in Com<sup>itatu</sup> Midd<sup>sex</sup> adtunc existen') re-  
cogn' se debere p<sup>ro</sup>lat M. p<sup>ro</sup> 100 l. solvend'  
eidem M. in Festo Sancti Michaelis  
Archi extunc p<sup>ro</sup>or' sequen' pdice tamen C  
licet sepius requisit' (Et.)

See *Hans.* 81. 1 *Bro.* 173. *Thomp.* 127. *Pl.*  
*Gen.* 238.

*Sur Recogn.* in *C. B.* *Thomp.* 125. 129.  
*Bro. Red.* 178.

See 1 *Bro.* 164. *Bro. Red.* 209, 210. *Co-*  
*ram capital Justic'*, &c.

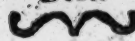
We have observed before in this Head  
several Forms by and against Executors  
&c. in the *Queen's Bench*, and hereunto we  
will add some other in the *Common Pleas*.

In the *Common Pleas*.

*Narr'* by an Executor.

**A**. B. nuper de (Et.) sum<sup>us</sup> fuit ad  
respondend' C. D. Executor  
Testi E. f. de p<sup>ro</sup>ito qd' reddat ei 20  
quas ei iniuste detinet Et unde (Et.) Se  
after for the Conclusion.

By an Executor of an Executor.



**M.** S. nup de (Tc.) sum fuit ad  
respond M. L. Executor Testi  
M. M. jun qui fuit Executor Testi  
M. M. sen de plito (Tc.)

By an Executor against an Executor.

**E.** M. nup de (Tc.) Executor Testi  
M. M. nup dice (Tc.) sum fuit  
ad respondens M. M. Executor Testi E.  
P. de plito qd reddat (Tc.)

By an Administrator.

**A.** D respond R. P. Administrator  
bonorum & catallozum que fuer  
J. P. tempore mortis sue qui obiit in-  
testat (Tc. de plito qd reddat ei 10l. quas  
ei injuste detinet (Tc.)

Against an Administrator.

**A.** B. nup de (Tc.) Administrator  
bonoꝝ & catalloꝝ C. D. qui  
obiit intestat (Tc. nup dict' C. D. de (Tc.)  
sum fuit ad respond Tc.

B b

By



*Debt.* By an Administrator during the Minority of the Executor.

*It.* **A**d respondet C. D. Administrator bonorum & catallorum que fuerunt J. G. sed durante minori etate J. G. jure Executor Testi ejusdem J. G. sed de plito quod reddat, &c.

By a Man and his Wife upon a Bond to the Wife whilst sole.

*It.* **A**d respondet A. B. Vir & M. Uxor ejus nup dicitur (et.) de plito quod reddat (et.) Et unde iidem A. & M. p. C. D. Attor suum dicit quod cum predicta C. F. (tali die & anno, as in the Bond) concessit se teneri eidem M. dum ipsa sola fuit p nomen (et.) in (et.) solvendi (et.) predictus tamen (et.) predictus 100 l. eidem M. dum ipsa sola fuit seu eidem A. & M. post sponsalia inter eos celebrata non reddidit set illi eidem M. dum ipsa sola fuit seu eidem A. & M. post sponsalia inter eos celebrata hucusque reddere contradixit & adhuc contradicit (et.)

Conclusio  
en,

Against Husband and Wife, Wife being Executrix before Marriage.

*It.* **R**. G. nup de (et.) & A. Vir ejus Executrix Testi J. S. nup dicitur (et.) suum fuit ad respondet C. M. (et.) predictus

# Of Declarations.

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Debr.

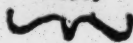
pdia' tamen J. S. in vita sua seu pdia' A. post ipsius J. S. mortem dum ipsa sola fuit nec pdia' R. & A. post sponsalia inter eos celebrat licet sepius requisie pdia' 20 l. eidem C. M. non reddiver' nec eorum aliquis reddidit set illi ei red- dere pdice J. S. in vita sua & pdia' A. post ipsius J. S. mortem dum ipsa sola fuit ac pdia' R. & A. post sponsalia in eos celebrat contradixit Et pdia' R. & A. adhuc reddere contradic Unde dic qd deterioz est (Ec.)

Conclu-  
sion.

Debt on Bond against an Heir *infra*  
*etat'.*

II. **A.** B. nup de (Ec.) fil & heres C. A. B. nup dia' (Ec.) sum. (Ec.) Et unde (Ec.) dic qd cum pdice C. B. pater pdice A. B. (cujus heres ipse A. B. est) in vita sua scilicet (Ec.) pdia' ta- men C. B. in vita sua ac pdia' A. filius & heres ipsius C. post mortem ipsius C. licet sepius requisie pdia' 100 l. eidem C. non reddider' nec eorum alter reddidit set illi ei reddere pdia' C. B. pater in vita sua & pdia' A. B. filius & heres post ipsi C. B. pater mortem contradixit ac pdia' A. filius & heres adhuc reddere contradic unde dic (Ec.)

Conclu-  
sion.



## Of Declarations.

## Conclusion by an Executor.

Et inde pduc Sextam, &c. Et \* pferit hic in Cui Literas Testatorias pdice A. p quas satis liquet Cui hic ipsum C. fore Executorem Testi pdicti Et inde habere Administrationem, &c.

\* If the Declaration be upon a Bond, say,

Et pferit hic in Cui tam scriptum pdicti quod debum pdicti in forma pdicti testatur cujus dat est die & anno supradictis &c. quam Literas Testatorias pdice A. p quas, (&c. as above.)

## Conclusion by an Executor of an Executor.

Et pferit hic in Cui idem M. I. tam Literas Testamentarias pdice M. M. sed quam Literas Testamentarias pced M. M. iud cum Testo pfae M. M. sed eisdem Literis annex' p que satis liquet Cui hic pfae M. M. iud fuisse Executorem Testamenti pfae M. M. sed ac ipsum M. I. fore Executori Testi pfae M. M. iud cum Testo pfae M. M. sed annex' Et inde here Administrationem, &c.

## Conclusion by an Administrator.

Predicta tamen A. licet sepius requisita pdicti 100 l. pfae J. P. in vita sua seu eisdem R. post ipsius J. mortem (cui quidem R. Administratio omnium bonorum



et catallozum que fuerit p̄dicta J. tempore mortis sue p . . . . . p̄videncia divina (Ec.) tali die (Ec.) apud (Ec.) post mortem ipsius J. commissa fuit non reddidit set (Ec.) Et p̄fert hic in Cui Literas Administrator p̄dicta Archiepiscopi que commissionem Administrationem in forma p̄dicta testantur quarum dat est die & anno supradictis, &c.

If upon a Bond, say,

Et p̄fert hic in Cui tam scriptum p̄dictum quod debum p̄dictum in forma p̄dicti Testatur cujus dat est die & anno supradictis quod Literas Administrator p̄dicti Archiepiscopi p̄dicti que commissionem Administrationem in forma p̄dicti testantur &c.

By an Administrator during *minor' etat'.*

Licet sepius requisit &c. p̄dictum 100 l. p̄fac J. in vita sua seu eidem C. post mortem ipsius J. (cui Administratio (Ec.) durans minor' etae p̄dicta J. adhuc infra etae 17 annorum existens p (Ec.) commissa fuit (Ec.) Et p̄fert (Ec.) tam scriptum (Ec.) quam Literas Testat p̄dicta J. p quas (Ec.) Accedam Literas Administrator' (Ec.)

See before concerning Executors, Administrators, &c.

## DETINUE.

**A** Writ of *Detinue* lies against a Man, where another hath delivered Goods or Chattels to him to keep or deliver over, and he doth refuse to redeliver them, or deliver them over, but detains them.

Or if they come to him by finding, and he hath lost or misemployed them, the Owner may have this Action, whereby the Plaintiff shall recover the thing it self, if it be to be had, with Damage; but if it be not to be had, then he shall recover Damages both for the thing and the Detainer also, *Co. Litt.* 286. *Dyer* 22. 331. *Kelw.* 64.

And it hath been held, where one may have a *Detinue*, he may either have it or *Trover*, at his election, *Stiles Reg.* 6. *Stiles Rep.* 3. *Leon.* 3. 303, 304. 1 *Bul.* 29, 68, 95, 120, 170.

But note, 1. That *Detinue* ought to be always of a thing in certain; and it will lie for any personal Goods or Chattels that are valuable, and whereof, and wherein one may have Property; as for a Horse, a Cow, Cloth, Household-stuff, Bags of Money sealed, or Chests of Money locked, &c. Sacks of Corn, Loads of Wood, Tuns of Oyl, and the like, and for Charters of Writings, &c.

But for Money out of a Bag or Chest, or for Corn out of a Sack, or the like, it will not lie, because it cannot be distinguished

and

and therefore uncertain, 1 R. 3. 2. 12 H. 8. 5. *Dyer* 22.

But in this Case the Party must have some other Action, as Case, 6 Ed. 4. 11. 12 H. 8. 3. *Dyer* 22. 29.

2. He that brings this Action of *Detinue*, must have a Right to, or a Property in the thing demanded when he brings the Writ; or he must be chargeable over to some other for the thing, 11 Co. 89. 27. H. 8. 33.

As if Goods be delivered by A. to B. for my use, or to deliver over to me, either A. that delivered them, or my self to whose use they were delivered, may have this Action.

3. The thing demanded must be once in the Custody and Possession of him that is to be charged, 11 Co. 89. See 4 Co. 83.

4. This Custody and Possession must continue, and not be removed by Act of Law, as Seizure, and the like, 11 Co. 89.

As if they be distrained or recovered out of my Hands upon an Execution, or Outlawry against the Owner.

5. The Party to be charged, must not have a Right or Property in the thing to be sued for; for if he take my Goods or Cattel by Distress, Damage Fesant, or for Rent, I cannot have this Action, 11 Co. 89. 2 Bro. 43.



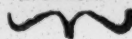
## Of Detentions.

The nature of the thing demanded must continue, 27 *H. 8.* 13. 12 *Ed. 4.* 8. for if it be altered, as if it were Leather, and be turned into Shoes; or if it were Parchment and Paper, and it be made into Writings, in these Cases it is said the Writ will not lie, nor can the Owner take it again: But if I deliver to *A.* sheaves of Corn to deliver over to *B.* and *A.* doth thresh them, I may seize the Corn threshed, for the threshing does not alter the property, 38 *Eliz. Banco Regis.*

But this bailment or delivery of Goods or Writings, sometimes is conditional, that is, to be redelivered when Money is paid, or something else done, and then it is but a Pledge: And where Goods are delivered to me as a Pledge, if before the tender of the Money the Goods be stoln away from me, I shall not answer for them; but if he had rendred the Money at the day, and I refuse to deliver the Pledge, and they be after stoln away, in this case I must answer them.

Sometimes is simple, as when he receiveth them to keep for me, or for my use, in such cases I may take my Goods again without any request; or if they be left to deliver over to another person, in this case, before they be delivered, I may countermand the Authority, and require my Goods again, and may bring my Action, or take my Goods where I find them, *Co. Litt.* 498.

Sometimes they are delivered by way of Loan, as if a Man lend me Money, Corn, or any such like thing, he cannot then expect the same thing again, but the like, or so much;



but if one lend me a Horse, or any such like thing, he must have the same thing restored, and if it be misused, or used to any other purpose than for which it was borrowed or hired, an Action of the Case lies; and if it be lost, stolen or destroyed by any neglect of mine, in such Cases I must make it good; but if it perish without my neglect, or by some Disease that I could not prevent, or by default of the Owner, in these Cases I shall not be charged.

So if I receive Goods to keep, I must answer for them, though I made no promise to keep them safe.

And if I be a Carrier for hire, though I be robbed, I must answer for the Goods I received.

But where Goods are delivered to me to keep, and I take them with a special Caution, and say that I will not answer for them, if they be stolen or hurt, or the like, there I shall not be charged, 4 Co. 38, 84. 29 Aff. Pl. 28. Co. Litt. 89. 2 H. 7. 11. 2 Ed. 4. 5. Doct. and Stud. 129. A.

See Survey of the Law, Title *Detinue*, p. 132. for what, where, and against whom this Action lies, &c.

Note, that in *Detinue* the Defendant may waive his Law, but in *Trover* he cannot, which is the cause more Actions of *Trover* than *Detinue* are brought.

See more in the Survey of the Law, from 132 to 158.

See also *Compleat Solicitor*.

See *Compleat Attorney*.

Narr'

*Detinue.* **Narr'** in *Detinue* by Husband and Wife for  
 Goods deliver'd by the Wife *dum sola*.

**H.** *S.* nuper de *W.* in Com<sup>o</sup> p<sup>re</sup>dice  
*Didua Executrix Testamenti* *S.* nuper de *W.* in Com<sup>o</sup> p<sup>re</sup>dice Gen<sup>o</sup> sum<sup>o</sup>  
 monitus fuit ad respondend<sup>o</sup> *T. G. & C.*  
*Uxor* ejus de p<sup>re</sup>lito q<sup>uod</sup> reddat eis catalla  
 ad valentiam quadragine solidorum qu<sup>ia</sup>  
 eis injuste detinet, &c. Et unde iidem  
*T. G. & C.* per *J. B.* Atto<sup>re</sup>n<sup>em</sup> suum dicunt q<sup>uod</sup>  
 cum ipsa *E.* dum sola fuit (tali die & an<sup>no</sup>)  
 apud *C.* delibasset p<sup>re</sup>fac<sup>em</sup> *N.* Testato<sup>re</sup>  
 in vita sua catalla p<sup>re</sup>dice videlicet viginti  
 modios frumenti quatuor patellas eneas  
 (&c.) ad valentiam, &c. salvo custodiend<sup>o</sup>  
 eidem *E.* cu<sup>m</sup> inde requisie fuisset redelibe<sup>re</sup>  
 rand<sup>o</sup> posseas p<sup>re</sup>dice *N.* apud *C.* p<sup>re</sup>dice con<sup>stituit</sup>  
 p<sup>re</sup>dice *H.* Executricem Testamenti  
 sui & ibidem obiit post cujus mortem ca<sup>ta</sup>  
 lla p<sup>re</sup>dice ad manus & possessionem p<sup>re</sup>  
*H.* (tali die & anno, &c.) apud *C.* p<sup>re</sup>dice de  
 venerunt per quod eadem *H.* fuit & ad  
 huc est inde possessionae p<sup>er</sup> quod ac<sup>to</sup> accre<sup>vit</sup>  
 bit eidem *E.* dum ipsa sola fuit ac p<sup>re</sup>fac<sup>em</sup>  
*T. G. & C.* post sponsalia inter eos celebra<sup>ta</sup>  
 ad erigend<sup>o</sup> & habend<sup>o</sup> de p<sup>re</sup>fac<sup>em</sup> *H.* catalla i<sup>n</sup>  
 la p<sup>re</sup>d tamen *H.* licet sepi<sup>us</sup> requisie catalla  
 illa p<sup>re</sup>fac<sup>em</sup> *E.* dum ipsa sola fuit nec p<sup>re</sup>fac<sup>em</sup>  
*T. G. & C.* post sponsalia inter eos celebra<sup>ta</sup> non  
 redeliberabit sed ill<sup>is</sup> eis hucusq<sup>ue</sup> redelibe<sup>re</sup>  
 rare contradixit ac injuste detinet unde, &c.

See Pl. Gen. 370. I Bro. 147.

*Narr*



*Narr' in Detinue pro Administrator' ver-  
sus Executor' super Billam indentat'  
pro Catallis deliberat' in Mortgagio.*

**N**. nuper de C. in Com' pd' Inn-  
holder & A. Ur' ejus Executors  
res Testamenti R. B. nuper de (sc.) sum-  
moniti fuerunt ad respondend' W. C. &  
M. Arozi ejus Administratoribus bono-  
rum & catallozum que fuer' C. D. alias  
dict' (sc.) de plito qd' reddant eis bona &  
catalla ad valentiam trigint' librar' que  
eis injuste detinent, &c. Et unde iidem W.  
& M. p' H. J. Altoz' suu' dicunt qd' cum  
p' quandam billam Indenture factam a-  
pud R. in Com' pd' vicesimo die Maij  
Anno (sc.) quam iidem W. & M. sigillo  
pd' R. signat' hic in Cur' p'fert cujus dat'  
est eisdem die & anno testat' sit qd' pdice  
R. in vita sua recepisset de p'fat' C. in vi-  
ta sua per nomen C. D. catalla pdicta' vi-  
delt unum poculum Argenti cum cooper-  
terio parcel' deaurat' unum Sallerium  
Argent' (sc.) pro quibus quidem Utensi-  
libus pdicta' R. ad iustum pdicta' C. D. sol-  
disset cuidam G. H. quinq' libras pdicta'  
tamen R. in vita sua p' se & Executori-  
bus suis voluisset & concessisset per In-  
denturam illam si pdict' C. aut Execu-  
tores sui ad aliquod tempus extunc im-  
posterum solberent & contentarent p'fat'  
R. aut Executoribus suis pdict' quinq' li-  
bras quod tunc pdicta' R. obligasset se &  
Executores suos deliberat' aut deliberari  
facere

facere eidem C. aut Assignatis suis omnia p̄d' Utensilia put p eandem Indenturam plenius apparet Et iidem H. & M. dicunt quod licet p̄dix' C. in vita sua post confectonem Indenture p̄dict scilicet decimo die Septemb Anno (sc.) apud Q. p̄d' in Com p̄dix' solvit p̄fat' R. in vita sua p̄dice quinqz libras secundū formā & effectum Indenture p̄ed' p̄dix' tamen R. in vita sua nec iidem P. & M. post mortem ipsius R. catalla p̄dice p̄fat' C. in vita sua nec eisdem W. & M. post mortem ipsius C. non deliberaverunt per quod Alcio accrebit eidem C. in vita sua ac p̄dict' W. & M. post mortem ejusdem C. ad erigend' & habend' de p̄fat' R. in vita sua ac p̄fat' P. & M. post mortem ejusdem R. bona & catalla p̄d' tamen R. in vita sua seu iide P. & M. post mortem ejusdem R. licet sepius requisit' bona & catalla p̄dict' p̄fat' C. in vita sua nec eisdem W. & M. quib' administratio omnium bonorum & catalloz que (sc.) per (sc.) post mortem ipsius C. commissa fuit non reddiderunt sed ill' eis reddere contradixerunt ac p̄dict' P. & M. ill' eisdem W. & M. adhuc reddere contradicunt ac iniuste detinent unde (sc.) & inde (sc.) Et p̄ferunt hic in Cui Literas Administratozias p̄d' Episcopi que Commissionem (sc.)

See Pl. Gen. 371.

*Narr' in Detinue pro pixide cum cartis  
quæ devener' ad manus defend' per  
Trove.*

**A.** B. nuper de (Ec.) sum fuit ad  
respondens C. D. Gen de plito  
quod reddat ei quandam pixidem cum  
cartis scriptis & aliis munimentis in e-  
adem pixide contene quam ei injuste deti-  
ner. &c. Et unde idem C. D. p J. S. At-  
torum suum dicit qd cum ipse (tal die &  
anno) apud W. fuisset possessionar de pi-  
xide pdice cum cartis scriptis & aliis mu-  
nimentis in eadem pixide contene videlt  
una carta cujus dæ est primo die Martij  
Anno (Ec.) p quam quidam P. W. dimi-  
sit scotavit & carta ill confirmavit cui-  
dam G. B. omnia illa tere & tenementa  
reddie & servitia cum suis ptinentiis vo-  
cae (Ec.) in Com pdia que pcedit P. W.  
simulcum C. S. nuper huerunt sibi & he-  
redibus suis ex traditione & confirma-  
tione quorundam J. F. & J. habend & te-  
nend omnia pdice tere reddie & servitia  
cum suis pertinentiis pfac G. B. Here-  
dibus & Assign suis imperpetuum put  
in eadem carta plenius continetur ac a-  
liis cartis scriptis & munimentis videlt  
Rentibus & Rotulis Curie pdice tere &  
tenement vocae (Ec.) concernend in eade  
pixide contene ut de pixide care scripe &  
aliis munimentis suis propriis. Et sic  
inde possessionar eandem pixidem cum  
cartis scriptis & aliis munimentis in e-  
adem



Detinue.

**W**idem contene apud M. p'dice eodem p'imo die Martij casualiter amisit quodq' eadem p'ixis cum cartis scriptis & aliis munimentis in ead'm contene postea eod'm p'imo die M. apud M. p'o ad man' & possessione p'dice A. B. p' invenzionem de venerunt p' quod idem A. B. fuit & adhuc est inde possessionae idem tamen A. B. licet sepius requisit' p'ixidem illam cum cartis scriptis & aliis munimentis in eadem p'ixide contene p'f'ae C. D. nondum delibavit sed ille ei hucusq' delibare contradixit & adhuc contradicit ac injuste detinet unde dic' quod deteriorat' est (et.) Et inde (Et.)

See Rast. 20. 217. Pl. Gen. 374.

*Bill' versus Attorn' pro Detinue un par  
Tabularum & Forejurer.*

**A.** **J.** L. per R. S. Attorn' suum querie de  
**J.** W. Gen' und Attorn' Cur Dom' Regid' de Banco hic plen' hic in Cur in p'opre p'son' sua de eo q'd non reddidit eadem **J.** L. catalla ad valent' 40 s. que ei injuste detinet p' eo videt' q'd cum p'dice **J.** W. vicesimo die M. Anno Regni Dom' Regid' nunc secundo apud, &c. mut' tuae fuisset de eodem **J.** L. und par Tabularum Tuloziarum Anglice a pair of Tables ac 30 Calos Anglice a set of Tablemen in eisdem Tabulis existend' ad valentiam, &c. salvo custodiend' Et eidem **J.** L. cum inde requisit' fuisset redeliberand' p'edice

predia' tamen J. W. licet sepius requi-  
sit predia' per Tabularum & 30 Calos  
pote' eidem J. W. nondum libabit set ille  
libare hucusq; contradixit & adhuc con-  
tradic' & injuste detinet Unde dic' quod  
deteriorae est & dampnum het ad va-  
lue' (Ec.) Et inde per remedium, &c. pleg  
pro' Johannes Doe Richardus Roe  
super quo p' J. W. solempnie exact'  
non ven' ideo ipse p' contumacia sua de  
Officio Actoru' hujus Cur' amodo exer-  
cens abjudicaretur quousq; Ec.

See *Rast.* 150. 212. *Ash.* 164. 168. *Bro.*  
*Red.* 259. *Pl. Gen.* 251. 262. 370. &c.

*Aliter* for Detinue of a Bond, and De-  
fendant prays Garnishment and Judg-  
ment against the Garnishee by default.

**A** B. nuper de, Ec. sum fuit ad re-  
spond' C. D. de p'futo qd reddat  
ei quoddam scriptum obligatorium qd ei  
injuste detinet, Ec. Et unde idem C. p' C. F.  
Actoru' suum dic' qd cum ipse (tali die &  
anno) apud B. libasset p'fate A. scriptum  
predice in quo continetur qd quidam B.  
de C. tenetur & obligatur eidem C. in  
Tab. sol. (ac eidem C. certo termino in eodē  
scripto content' solvend) salvo custodiend  
eidem C. cum inde requisit' fuisset re-  
solvend' predicus tamen A. licet sepius  
requisit' scriptu' p' eide C. nondū libabit  
et ille ei (ec.) Et inde pduc' Sextam, &c.  
Et

Derinue.

**Et** p<sup>d</sup> A. veni & pferendo hic in Cur scriptu p<sup>d</sup> parat ad deliband' cui vel quibus Cur Regiū hic cons die quod scriptu illud die & anno supradice apud S. p<sup>d</sup> eidd A. tam per p<sup>d</sup>ice C. quam p p<sup>d</sup>ice B. unanimi eorū assensu & consensu libat fuit equa manu sub certis conditonibus salvo custodiend' & eisdē C. & B. aut eorū alteri hered' leu Executori suis sub conditonibus ill' ex parte p<sup>d</sup>ict' B. adimpleti sunt necne idem A. die quod ipse penitus ignorat Et per quod p<sup>d</sup> B. inde p<sup>d</sup>uniat' &c. quod ei conceditur, &c. Ideo p<sup>d</sup>cept' est qd Vic p p<sup>d</sup>hos, &c. Scire fac p<sup>d</sup>at B. qd sit hic (tali die) ostens si quid, &c. quare scriptum p<sup>d</sup>ict' p<sup>d</sup>at C. libari non debeat si, &c. idem dies dat' est partibus p<sup>d</sup> hic, &c. Ad quem diem hic veni tam p<sup>d</sup>ice C. qua p<sup>d</sup> A. per Actorū suos p<sup>d</sup> & p<sup>d</sup> B. quarto die p<sup>d</sup>iti solemniter erant non veni & Vic modo mand' qd scire fecit eidem B. qd esset hic ad hunc diem ostens in forma p<sup>d</sup>ict', &c. p C. & M. p<sup>d</sup>hos, &c. ideo cons est qd p<sup>d</sup>ict' C. recuperet verus p<sup>d</sup>at A. scriptum p<sup>d</sup> & heat inde libatorem s<sup>d</sup>us p<sup>d</sup>at B. p default, &c. Et super hoc idem A. libat hic in Cur scriptum p<sup>d</sup> p<sup>d</sup>at C. ideo idem A. sit inde quiet, &c.

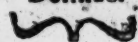
*Note,* That if the Garnishee be returned Scire fac' and makes default, Judgment shall be to recover the Writings and Delivery against the Defendant, but no Damages against the Garnishee, before he appear and interplead.

See *Rast.* 217, 218.

*Aliter*



*Aliter* when the Garnishee appears.



Ad quem diem hic vend tam p̄dictus  
Quer quam p̄dic' Def. p Attorū suos pre-  
dic' Et p̄dice C. in p̄p' p̄son sua familie  
vend Et Dic mand qd Scire Fac' eidem C.  
ostendi hic ad hunc diem ostens in forma  
p̄dice p C. M. & J. B. &c. & sup hoc  
idem Quer' p̄e plus p̄dice A. libatō  
scripe p̄dice &c. & p̄e lilo.

See *Raft.* 213.

*Aliter.*

Vend & dic qd Actio non, &c. quia die  
quod scriptum p̄dic' die & anno supradic'  
apud B. p̄dic' delibae fuit eidem Def.  
tam p p̄dic' Quer' quam p p̄dic' G. C.  
& J. equa manu (ut supra) set utrum  
Condiçones ill ex parte p̄dic' Quer' an  
ex parte p̄dic' G. C. & J. p̄implee sunt  
merne (ut sup.)

*Alit' & interplacitatio* upon two Bonds  
*sur two Narr'*

**T** C. nup de L. sum fuit ad respondi  
A. P. de plito qd reddat ei duo  
scripta obligatoria que ei iniuste detinet  
&c. & unde (&c.) die qd cum ipse &  
quidam A. S. quinto die J. Anno (&c.)  
apud L. libassent p̄fac C. scriptum p̄e  
die in quozum uno continetur qd (&c.)  
C c salvo

Detinue. Salvo custodiens & eidem A. cum inde  
 requisit fuisse redelivandū p̄dictus tamen  
 C. &c.

Itē p̄dictus C. C. de A. &c. lund fuit  
 p̄ aliud b̄ede Dorn Regid ad respons S.  
 G. de plito qd reddat ei duo scripta obli-  
 gatoria que ei iniuste detinet, &c. Et unde  
 idem S. (&c.) dic qd cum ipse ac quidam  
 A. P. quinto die J. Anno (&c.) apud  
 &c. libasset p̄fac C. scripta p̄ed in quorū  
 uno continetur qd (&c.) salvo custodiens,  
 &c. (ut supra) Et p̄ed C. p̄ A. Attorū  
 suum ven̄ tam ad Sextam p̄ed A. quam  
 ad Sextam p̄ed S. & defend vim & in-  
 jur' quando, &c. & dic qd p̄ed scripe p̄  
 p̄ed A. & sus eum exact' sunt eadem duo  
 scripe obligator' que p̄ed S. sibi erigit  
 & sus eum quodq; eadem scripta die anno  
 & loco supradictis tam p̄ p̄ed A. quam p̄  
 p̄fac S. libae fuer' eidem C. sub certis  
 Condicionibus equa manu custodiens &  
 eis aut eorū alteri sub Condicion illi reli-  
 vandū set utrum uterq; eorū Condicion illi  
 ex parte sua p̄implebit necne dic qd ipse  
 summo ignorat & p̄ec qd iidem A. & B.  
 interplacent cui vel quibus eorū eadem  
 scripe p̄tinent libari Ideo cons̄ est qd  
 iidem A. & B. inde inter eos implirent si  
 velint, &c. sup quo idem A. dic qd scri-  
 pta p̄ed sibi & non p̄fac S. p̄tinent libe-  
 rari quia dic qd (&c.)

Vide Rast. Entr. 213, Rob. 226. 1 Bro.  
 347. Pl. Gen. 375.

Note,

Note, That in a Detinue of Goods, the Judgment was against the Defendant for the Chattels, and against the Garnishee for the Damages, where the Issue was between the Plaintiff and the Garnishee, and the Execution shall not be against his Body, because he was no Party to the Writ, but it shall be against his Goods and Chattels or Lands, 7 H. 6. 45. 14. H. 6. 11. 21 H. 6. 35.

Note, That Detinue of Writings concerning Lands, which is real, shall be demanded by *Pone* and Distress, and not by Process of Outlawry.

Neither can the Defendant wage his Law upon a Detinue of Writings concerning Lands.

Or in a Detinue of an Endowment of a Lease for Years, *Instit. 295.*

But in Detinue upon Bailment *per auter mains*, the Defendant may wage his Law, because the *Debet* and *Detinet* is the ground of the Action, &c. *Ibid.*

Note, That if the Defendant appear upon the Original, and the Garnishee plead, and the Plaintiff recovers, he shall recover Damages against the Garnishee. But if the Defendant appear to the Distress, and the Plaintiff recover, he shall recover his Costs against the Defendant, and Damage against the Garnishee, because he interpleaded. But if the Garnishee recover, he shall not recover Damages against the Defendant, but only against the Plaintiff.



Damages in *Detinue* assessed by the Court.

**N.** **E**t sup hoc ad petitionem ipsius C. & ex assensu ejusdem D. Justic hic auid dampna ipsius C. occasione captōis & injuste detentōis patelle pzed ultra misa & custag sua p ipsum circa Sextam suam in hac parte appoit ad 2s. & p misa & custag ill ad 40s. ideo cons est qd pzed C. recuperet sllus pfac D. dampna sua pzedicta p Justic pzed in forma pzed assessa & pzed D. in misa, &c.

See Judgments in *Detinue pro valore*, *Hansf.* 135, 136. 2d Part *Townsf.* Judgments, 82, 83, 84, 85, 86, 87. *Rast.* 211, 212, 218, 219.

*Sur Verdict*, *Co. Entr.* 170. *Ash.* 170. 1 *Bro.* 120, 259.

See 4th Part *Instruct' Clerical*, *Tit' Detinue*.

*Aliter* upon cogn' *Actionem* in *Detinue* upon the Original *Distringas* awarded, Judgment *pro valore* & dampn' & mis'.

**N.** **C**ount upon *Detinue* of Goods. — Def. confesse le *Action* nec quiple detineat eidem Quer bona & catalla pbia in forma qua idem W. superius versus eum narrabit ideo cons est qd Quer recuperet versus pfac Def. bona &

catalla p̄dicta' vel valorem eozundem &  
nichil de m̄ia p̄dicta' Def. quia v̄d̄ p̄mo  
p̄ l̄und̄ ꝥc. Et p̄cepe est Dic qđ Dist̄  
Def. p̄ omnes terr̄ ꝥc. & qđ de erie  
ita qđ reddat Quer̄ bona & catalla  
p̄ l̄und̄ ꝥc. p̄ sacrum duodecim ꝥc. diligene  
inquir̄ que dampna (ꝥc.) tam occ̄sione (ꝥc.)  
nam (ꝥc.)—And it was found by the  
inquisition qđ Def. non reddidit, And  
found the Value and Damages ultra m̄iā  
p̄ m̄iā ꝥc. And Judgment to recover  
100 s. p̄ valore bonoꝝ & catalloꝝ p̄dict̄  
dampna (ꝥc.) necnon m̄iā (ꝥc.) & Def.  
m̄iā ꝥc. M. 1 M. Ro. 526.

And it is to be observed, That if Goods  
be delivered to a Man to be kept safely,  
and they be stoln, he is bound by the Ac-  
ceptance to make them good : But if the  
Goods be delivered to be kept as he would  
keep his own, 'tis otherwise ; So if Goods  
be delivered as a Pledge, because he then  
hath a Property in them, and ought to keep  
them no otherwise than his own ; but if he  
hath gaged them tendred the Money before  
calling, and the other refuse to deliver  
them, then he shall be charged, Co. Inst.  
89.

So that he that receiveth Goods to be  
kept, should receive them in special man-  
ner, to be kept as his own, and at the Peril  
of the Owner, as is before observed.

Yet if A. deliver a Chest to B. locked,  
and taketh away the Key, not acquaint-  
ed with B. what is in the Chest, and the Chest,

Ejectment. with other Goods of B. is stoln, B. it's said  
 is not chargeable, *Co. Inst. ibidem.*

See more of Barrs and Pleadings in *De  
 tinue*, 4th Part of *Instruct' Clericalis*, *Ti  
 Detinue.*

## EJECTMENT.

**T**HIS is become the most usual Action  
 for the Tryal of Titles, and supplies  
 the place of many Real Actions, as *Form  
 don, &c.* and is the Common Road where  
 by Men go to the possession of those Land  
 or Tenements wherein, or whereto they  
 have a Right or Title.

And it is now also made more easie than  
 formerly, there being no occasion for  
 Lease to be made and delivered upon the  
 Premisses to the Lessee, and Ouster and  
 Ejectment, as if there be any Tenants  
 Otherwise where there are no Tenants in  
 possession the old way must be observed,  
 Sealing a Lease upon the Premisses, &c.

But the usual course is to feign a Lease  
 a Lease of Ejectment, and an Ejector  
 Defendant in a Declaration, and send  
 Copy of such Declaration to the Tenant in  
 possession, on the bottom or back thereof  
 giving him notice in the Defendants name  
 to appear and defend his Title, or that else  
 he the Defendant will suffer Judgment by  
 Default.



Default, and thereby the Tenant will be Ejectment.  
evicted out of Possession, as you may ob-  
serve in the first Book.

To this Declaration the Tenant may appear by his Attorney, and consent to a Rule to be made Defendant in the Room of the Feigned or Casual Ejector, and to confess the Lease, Entry and Ouster, and at the Tryal to stand upon the Title only, &c. And if he appear and consent not to this Rule, upon motion the Court will order it, or else Judgment against the Casual Ejector. And if he do not appear, in due time, after the Declaration left with him, and enter into a Rule as aforesaid; then upon Affidavit made by the Party that served him, or left for him at his House such Declaration and notice to appear, the Court upon motion will order Judgment to be entred against the Casual Ejector, viz. the Feigned Defendant in the Narr.

*Note, The Common Presidents in Ejectment are in the First Part of Instructor Clericalis.*

And I have here added a Special Declaration of Ejectment upon three several Demises, which may be sufficient on this Head.

*Narr' upon three several Demises.*

Note ff. **A.** B. nup de P. in Com pte  
 spond J. B. de pito quare vi & armis  
 1. unum Messuagium tria Stabula tria  
 Pomaria sexagine Acri terre Arabie sexa-  
 gine Acri Prati & sexagine Acri Pasture  
 cum ptiid in D. que C. S. eidem J. di-  
 misit ad Terminum qui nondum pterit  
 ac unum al Messuagium tria Stabula  
 2. tria Pomaria sexagine Acri terre Arabie  
 sexagine Acri Prati & sexagine Acri Pa-  
 sture cum ptiid in D. que R. f. eidem J.  
 dimisit ad Terminum qui nondum pte-  
 riit & unum al Messuagium tria Sta-  
 3. bula tria Pomaria sexagine Acri Ter-  
 Arabie sexagine Acri Prati & sexagine  
 Acri Pasture cum ptiid in D. que W.  
 H. eidem J. dimisit ad Terminum qui  
 nondum pterit intrabit Et ipsum a fin-  
 ma sua pte ejecit & alia enozmia ei in-  
 tulit ad grave dampnum ipsius J. & con-  
 tra pacem Dñe Regine nunc &c. - Et unde  
 idem J. p P. O. Actozd suum querit  
 qd cum pedia' C. quinto die Martij  
 Anno Regni Dñe Regine nunc secundo  
 apud Paroch de D. dimississet eidem J.  
 tenementa pdia' p ipsum C. superius  
 4. mentionat foris dimiss cum ptiid hnd  
 occupans eidem J. & Assigns suis a pmi-  
 die Martij tunc ule pterit usq; finem  
 Terminu quinq; annoz um extunc pr' se  
 quer

sequen' & plenar' complend' & finiend' vir-  
tute cujus quidd' dimission' idem J. in ea-  
dem Ceñta cum pñd' intrabit & fuit inde  
possessionae iploq' J. sic inde possessionae  
existed' pñd' A. postea scilicet eodem  
quinto die Martij Anno secundo suprad  
bi & armis, &c. in Ceñta pñd' cum per-  
tind' que pñd' C. eidem J. in forma pñd'  
dimisit ad termin' qui nondum pñd'  
intrabit & ipsum J. a firma sua pñd'  
ejecit Cumq' etiam pñd' R. eodem  
quinto die Martij Anno secundo supradice  
apud D. pñd' dimisisset eidem J.  
Ceñta pñd' per ipsum R. eidem J. su-  
pius mentonae fore dimiss' cum pñd'  
hend' & occupand' eidem J. & Assign' suis  
a secundo die Martij tunc ul' pñd' usq'  
finem & terminum quinq' annorum ex-  
tunc pñd' sequen' & plenar' complend' & fi-  
niend' virtute cujus quidd' ul' dimission'  
idem J. in eadem Ceñta cum pñd' in-  
trabit & fuit inde possessionae iploq' J.  
sic inde possessionae existed' pñd' A. eo-  
dem quinto die Martij Anno secundo su-  
pradicto bi & armis, &c. in Ceñta pñd'  
cum pñd' que pñd' R. eidem J. in forma  
pñd' dimisit ad terminum pñd' qui  
nondum pñd' intrabit & ipsum J. a  
firma sua pñd' ejecit Cumq' etiam pñd'  
dice W. eodem quinto die Martij Anno  
secundo supradicto apud D. pñd' dimi-  
sisset eidem J. Ceñta pñd' per pñd' W.  
eidem J. supius mentonae fore dimiss'  
cum pñd' hend' & occupand' eidem J. &  
Assign' suis a tertio die Martij tunc ul'  
pñd' usque finem & terminum quinq'  
ann.

2.

3.



Ejectment.

annorum extunc pꝛor' sequenꝝ & plenae  
 complens & finiend' virtute cujus quie-  
 dem ult' dimission' idem J. in eadem  
 Ceñta cum pertin' intrabit & fuit inde  
 possessionae ipsoꝝ J. sic inde possessionae  
 existenꝝ pꝛedia' A. postea scilt eode' quin-  
 to die Martij Anno secundo supꝛadicto vi  
 & armis, &c. in Ceñta pꝛdice cum pertin'  
 que pꝛefac' W. eidem J. in forma pꝛdice  
 dimisit ad termin' qui nondum pꝛterit  
 intrabit & ipsum J. a firma sua pꝛdice  
 ejecit & alia enozmia, &c. ad grave damp-  
 num, &c. & contra pacem, &c. unde die  
 quod deterioꝛae est & dampnum het ad  
 valenc' viginti libꝛarum Et inde produc  
 Sextam, &c.

This Declaration seems to be drawn  
 where three Persons claimed Title, but  
 could not tell positively in which the Title  
 lay.

See Presidents, *Sur Demise parol.* Thomp.  
 295. Winch. 369. 373, &c. 1 Bro. 208. 2011.  
 1 Sand. 171. 2 Sand. 108.

*Simile per Original in Banco Regis,* Thomp.  
 295. Reads. Dec. 253. 1 Instr. Clerical. 394.

*Sur Demise per Indentur.* 1 Brown 208.  
 210. 2 Bro. 111. Bro. Vad. 271. Pl. Gen.  
 403, &c.

*Simile per Scriptum sigillat.* 1 Bro. 209.

PARTITION.

*Vide Narr' inde Clif. 552. 561, 562, 566.  
Bro. Red. 390, 391, &c. Rob. 342, 343. 2  
Lut. 1115. Pl. Gen. 460, &c.*

PROHIBITION.

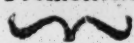
**P**rohibition is a Writ issuing out of the *Chancery, Queen's Bench or Common Pleas*, and lieth for the prohibiting of any Court, either Spiritual or Temporal, to proceed in any Cause there depending upon Suggestion, that the Cognizance thereof belongeth not to that Court; but if it appear to the Court above, that the matters complained of, are such as are proper to those inferior Courts, and ought to be determined there, then the Plaintiff in the first Suit shall have a Consultation to remand the Cause to the inferior Court, and to command the Judges there to proceed therein.

If after a Prohibition the Plaintiff his Agents or the Judges (to whom this Writ is generally directed) do Proceed, it's said an Attachment may be had against them. *Vide Fitz. N. B. fo. 39. 43. 4 Co. 127. Bract. lib. 5. Tract. 5. cap. 3, 4, 5, 6, &c. Finche's Law, 450.*

If the Dutchy Courts, or other Courts of Record meddle beyond their Jurisdiction, they may be stayed by this Writ.

Also

Prohibition



Also if the County Court or Court Baron entertain Suits for Charters of Land, or for the Inheritance or Freehold of Land, or for any Titles to Land, or for Debt or Damage Goods or Chattels above 40 s. without a *Justicies*, or make several Complaints of one intricate Debt by Bond or otherwise, it being above 40 s. or sue Trespasses there *vi & armis*; the Party grieved before or after Judgment, till Execution be made, may have this Writ to the Sheriff or Bailiff to stop it, *F. N. B.* 46, 47, &c. Also Writs of Error and false Judgment have some Affinity to this Writ.

But this Writ of Prohibition is now most usually sued out for one that is impleaded in the Spiritual Court or Court Christian, for a Cause belonging to the Temporal Jurisdiction, or the Cognizance of the Queen's Court, whereby as well the Party and his Council, as the Judge himself and the Register are forbidden to proceed any farther in that Cause. So that if the Spiritual Courts meddle with things they have not to do with, as if they take upon them to determine Questions about Title of Lands, or Charters of Lands devised by Will, Debts on Promises, Trespasses, Wafts or the like; or if they entertain Suits there for any thing else, for which a Man hath his ordinary Remedy in other Courts: Or if in such matters wherein they have Conusance, as touching Tithes, Marriage, Legacies of Chattels Real or Personal, and defamatory Words for which no Action lieth at the Common Law, or the like, they go about to countenance Men in Suits

Suits n  
deny M  
Pleas th  
proceed  
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41, 42,  
And  
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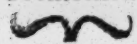
Suits not justifiable and maintainable, or Prohibition  
 deny Men those Defences, Discharges and  
 Pleas that the Law allows, or do any way  
 proceed against the Law, or the Rules of  
 the same Courts, the Party grieved (it is  
 said) may have relief by this Writ, *F.N.B.*  
 41, 42, &c.

And upon a Prohibition in the Spiritual  
 Court, the Party may appear and go to  
 Trial; and if thereupon it be found against  
 the Complainer, a Writ of Consultation  
 will be granted.

A Suggestion for a Prohibition in the  
*Queen's Bench* upon a *Modus decimandi*.

**M**emozandum qd die Mercurij pr'  
 post tres sepe Sancti Michaelis  
 eodem Termino coram Dom<sup>o</sup> Regid  
 vud Westm<sup>o</sup> ven<sup>o</sup> A. B. in prope plona  
 & dat Cur<sup>o</sup> dicti Dom<sup>o</sup> Regid nunc  
 intelligi qd cum quidam C. D. anno  
 (scilicet) scilicet fuit in dnico suo ut de seodo  
 & in diversis sepelibus pratis & pa-  
 turis cognie p noen manerij de C. cum  
 tunc jacend & existend in Paroch de C. in  
 dom<sup>o</sup> L. & in locis decimalibus Paroch  
 dice unde 20 Acr Prati & 50 Acr Pa-  
 tur cum ptid in C. pdice nuper in tenura  
 pdice A. nunc sunt & a tempore cujus  
 contrar memoria hominum non existit  
 per parcel Cuang etiam idem C. D. &  
 omnes illi quorum statum idem C. tunc  
 est de & in predictis separalibus pratis  
 pastur pdice p se firmarios & tenentes  
 suos.

Prohibition



suos tenementorum p̄dice cum p̄tind a tem-  
 poze cujus contrai memoria hominum  
 non existit solvit & solvet & solvere &  
 reddere consuevit Rectori Ecclesie Paro-  
 chial de C. p̄ tempore existend ejusde fir-  
 mar vel deputat Rectorie ill seu decima-  
 rum inde p̄ tempore existend apud C. p̄  
 annuatim quolibet anno ad fest' (sc.) vel  
 postea super rasonabil requisition ejusde  
 Rectoris firmarij seu Deputat s̄ l. lega-  
 lis monete Anglie equis portionibus ad  
 festa p̄dice annuatim scribend in plen  
 & integram contentationem solutionem  
 satisfactionem & exonerationem ac no-  
 mine & loco omnium & singularum de-  
 cimarum quarumcunq de in & super p̄-  
 dice sepas p̄atis & pastur cum p̄tind seu  
 aliqua inde parcel crescend renoband p̄-  
 veniend seu quovismodo contingend Re-  
 ctori Ecclesie Parochial de C. p̄dice seu  
 ejus Firmario vel Deputat Rectorie ill  
 seu Decimarum inde p̄ tempore existend  
 quovismodo debie reddibil seu solubil  
 quas quidem s̄ l. modo & forma p̄dice  
 solubil & solue Rectori Ecclesie Parochial  
 de C. p̄dice ejusque Firmar & Deputat  
 Rectorie ill seu Decimarum inde p̄ tem-  
 poze existend in plenam & integram con-  
 tentationem solutionem satisfactionem & ex-  
 onerationem ac nomine & loco omnium &  
 singularum Decimarum quarumcunq de  
 in & super p̄dict sepalibus p̄atis & pastur  
 cum p̄tind seu aliquam inde parcel annua-  
 tim quovismodo crescend renoband p̄-  
 veniend seu quoquo modo contingend Rectori Ec-  
 clesie Parochial de C. p̄dice seu ejus fir-  
 mario

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mario vel Deputae antedicti quovismodo  
 debite reddibil' seu solubil' annuatim per  
 totum tempus pdict acceptaber' receper' &  
 huiusmodi Predicatorum C. D. sic de tētis pre-  
 dict leit existē (such a day and year de-  
 mised, &c. for years, and so deduces and  
 makes out his Title and Possession) virtute  
 huius dimissionis idem A. B. in pdicta 30  
 Aci parati & 50 Aci pastur' cum ptiā in-  
 trabit ac tēta pdict cum ptiā per  
 spatium trium annorum integrorum ex-  
 tunc pr' lequēd huius tenuit & occupabit  
 licet idem A. quolibet anno pdictorum  
 trium annorum apud C. pdict ad fest', &c.  
 in eisdem sepe rat' annis parat' fuit & obtu-  
 lit & adhuc parat' existit ad solvend' cui-  
 dam G. F. tunc & adhuc Rectori Ecclesie  
 Parochial' de C. pdict 5 l. legalis monete  
 Anglie in plenam & integram contenta-  
 tionem solutionem & satisfactionem & exo-  
 nationem ac nomine & loco omnium &  
 singularum Decimarum quarumcunque in-  
 tra sepe rat' p'ae & pastur' pdict cum per-  
 tinentiā & quamlibet inde parcel' annuatim  
 crescēd renoban' p'obenediē seu quoquo-  
 modo contingēd Rectori Ecclesie Paroch-  
 ial' quovis modo debet reddibil' seu so-  
 lubil' iuxta prescriptionem & modum de-  
 mandandi pdict pdict tamen G. F. denae  
 de eodem A. ad tunc & ibidem recipere  
 penitus recusat. Cumque etiam huius-  
 modi cause sive negotia de decimis & mo-  
 do debet decimandi ad Dom' Regiū nunc  
 coronam suam Regiam specialit' per-  
 tinent & spectant ac p' legem terre huius  
 Regni Anglie & non p' Iur' sive Censur'  
 Ecclesi-



Prohibition

Ecclesiasticas triari terminari & discutī  
 debeant & semper hactenus consueverit p̄  
 dictus tamen G. f. p̄missorum non ig-  
 narus machinans ipsum A. B. contra  
 debitam legis terre huius Regni Anglie  
 formam & contra formam & effectum p̄-  
 scriptōd consuetud' & mod' decimandi p̄-  
 dict' indebite gravare opprimere & fati-  
 gare nec non Dom' Regiū nunc & Coro-  
 nam suam Regiam exhereditare cogni-  
 tionemq; pliti que ad Dom' Regiū nunc  
 & Coronam suam Regiam specialit' spe-  
 ctat & pertinet ad aliud examen in Cui  
 Christianitat' trahere ipsum A. B. in  
 Curia Christianitat' coram venerabili vi-  
 ro J. K. legum Doctore (&c. setting forth  
 the Title of the Court and Judge, &c.)  
 ejulbe in ea parte surrogat' sibi substitue  
 legitimo aliob' Iudice in ea parte com-  
 petend' de & p̄ subtractione & non solutione  
 Decimarum de & p̄ separat' p̄at' & passu  
 p̄dict' cum p̄tind' traxit in plitum cau-  
 te & subdole in eadem Cui Christianitat'  
 libellando versus eundem A. B. (int'  
 al') qd' ipse p̄dict' A. B. mensib' Martij  
 Apr' Maij Iun' Julij [&c. and so sets form  
 the substance of the Libel in the Spiritual  
 Court] p̄out in libello p̄dict' plenius con-  
 tinetur ipsumq; A. B. eo p̄teritu in  
 dicta Cui Christianitat' coram p̄fat' Iu-  
 dice Spirituali comparere ac p̄fat' f. G.  
 abinde respondere minus iuste astrinxit  
 Ac licet idem A. B. omnia & singula p̄-  
 missa superius content' in exonerationem  
 suam in eadem Cui Christian' plitavit &  
 allegavit ac ill' inevitabil' veritat' & testi-  
 monio

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See  
 188,  
 1043,  
 158,  
 De  
 273, 2  
 De  
 2 Bro  
 Hans.  
 2 Lut.

monio pbare obtulit Idem tamen Iudex Prohibition  
 Spiritualis pfitum & allegatō ill ad-  
 mittere penitus reculabit ac pzed f. G.  
 ipsum A. B. p definitivam die Cur Chri-  
 stianitae sentent de & sup pmissis con-  
 dempnari & Decimas pzed p ipsum f. in  
 forma pzed petie contra formam & effectū  
 pscriptōi consuetud & modū decimandi  
 pzed solvend' causare totis suis viribus  
 conatur & indies machinatur in dice  
 Dñe Regine nunc contemp & ipsius A.  
 B. dampnū pjudiciū & gravamen ma-  
 nifest' Et hoc idem A. B. parat est veri-  
 ficare unde idem A. auxiliū & munificē  
 Cur' dia' Dom Regine nunc hic humil-  
 lime implorando pce Remediū & breve  
 Dom Regin de Prohibitiōe pfac Iudici  
 in hac parte competē cuicunq; dirigend'  
 ad phibend' ipsos & eorum quemlibet ne  
 ipsi seu eorum aliquis p'itum pzed pre-  
 missa pzed' quobis modo tangend' coram  
 eis seu eorū aliquo ulterius teneant seu  
 eorū aliquis teneat & ei conceditur, &c.

See 1 Bro. 272, 279, 283. 2 Bro. 186,  
 188, 194, &c. Bro. Red. 394, 400. 2 Lnt.  
 1043, 1057, 1701, &c. Thomp. 252, 238,  
 258, 261.

De Terr' exonerat' de Decimis, 1 Bro.  
 273, 277. 2 Bro. 197.

De Boscis, &c. 1 Bro. 270, 287, 290.  
 2 Bro. 193. Thomp. 224, 235, 240, &c.  
 Hansf. 178, 180. Clif. 581, 584, 588, &c.  
 2 Lnt. 1032, 1062, &c.

The Declaration upon a Suggestion is  
as follows.

ff. **A.** B. querie de C. G. in custod  
Mari Marese Dñe Regine co  
ram ipsa Regin̄ existē de plito quar  
sequutus fuit plitum in Cur Christianita  
contra Prohibicionem Regiam ei prius  
in contrar̄ inde direct' p eo videt qd cum  
quidam A. B. [Ec. usq] in dia' Dñe  
Regine nunc contemptū & ipsius A. B.  
dampnū pjudiciū & gravamen manifest  
Et inde pduc Sextam, Ec.

Aliter.

ff. **A.** B. qui tam p Dña Regina quam  
p seipso sequitur queritur de C.  
D. Rectore Ecclesie Paroch de C. in Con  
T. in custod Mari Marese Dñe Regine  
cozam ipsa Regin̄ existē de plito quar  
sequut' est plitum in Cur Christianita  
post Prohibicionem Regiam sibi prius  
in contrar̄ inde direct' & deliberat p eo vide  
qd cum, Ec.

The Conclusion—

Cotis suis viribus conatur & indies m  
chinatur ac licet h̄e dia' Dom Regine  
Prohibicione eidem C. D. prius vide  
(tali die & anno) apud C. p̄ed in Co  
p̄ed in contrariū direct' & deliberat fuisse  
ip



ipse tamen C. D. in causa p̄d̄ ulterius Prohibitionem  
 p̄cessit ac p̄litum p̄d̄ in Cur̄ Christianitae  
 p̄d̄ apud (sc.) p̄secutus fuit (eodem  
 die d̄c̄ Dñe Regine non obstant) in die  
 Dom̄ Regine contempe & ipsius A. B.  
 dampnū p̄judiciū & depaup̄acōn mani-  
 festū ac contra formam & effectum Legum  
 A. & Statutorū in huiusmodi casu inde  
 nup̄ edic̄ & p̄vis unde idem A. die quod  
 ipse deteriorae est & dampnū het ad va-  
 lene 20 l. Et inde p̄duc̄ Sextam, &c.

Aliter.

**A** licet breve die Dom̄ Regine de  
 Prohibitione plac̄ Iudic̄ delegae  
 (tali die & anno) apud (sc.) in hac parte  
 in contrariū inde directū & deliberatū fuit p̄-  
 dictū tamen C. D. p̄litum p̄dictū post Pro-  
 hibitionē p̄d̄ prius inde directū & deliberatū  
 fuit (tali die & anno) apud I. p̄d̄ (sc.)  
 ulterius p̄secutū est Et in p̄lito illi p̄cessit  
 dicto brevi de Prohibitione prius in con-  
 trariū inde in forma p̄dictū directū & deliberatū  
 non obstant) in die Dom̄ Regine nunc  
 contempe & ipsius A. B. dampnū p̄judi-  
 cium depaup̄acōn & gravamen manifestū  
 & contra formam p̄scriptōnis & modū deci-  
 mandī p̄dictū Et ceterorū p̄missorū unde  
 idem A. B. qui tam ec. die quod ipse de-  
 teriorae est & dampnū het ad valene 20 l.  
 Et inde tam p̄ Dom̄ Regina quam p̄ se-  
 ipso p̄duc̄ Sextam, &c.

To the Admiralty upon a Libel there.

**Q**UOD cum in Parliamene Domi-  
nup Regis Anglie Secundi post  
Conquestum &c. Anno Regni sui decimo  
quinto tene (inter cetera) declarae or-  
dinae & stabilie existit Quod de omnibus  
contractibus plitis & querelis ac de om-  
nibus rebus factis sive emergent infra  
corpus Com tam p terram quam p a-  
quam ac etiam de Wycco maris Cur Ad-  
miralitaē nullam het cognicionē potestae  
nec jurisdictionē sed sunt omnia hujus-  
modi contracte placita querele ac omnia  
alia emergent infra corpora Com tam p  
terram quam p aquam ut p̄dict' est ac-  
ciam Wyccum maris triae terminae dis-  
cuss & remediae p leges terre & non co-  
ram Admirallo nec p Admirallum nec  
p ejus locum tenent quovis modo Qui-  
dam tamen, &c.

*Vide* 1 Bro. 282. Hans. 174, 176. Vidian  
221, 223. Thomp. 250, 254, &c.

*Cur' Scaccar' Cestriae*, Clif. 578, 589.

*Cur' Presiden' Wallie*, Vidian 239. Tho  
245, 255.

*Cur' Inferior'*, Lev. Entr. 133. 2 Lut.  
1023, &c.

The *Memorandum* for an Issue in the *Queen's Bench* upon a Prohibition.

Prohibition

**L. II.** **M**emorandum qđ als scilt Termino Pasce ule pterie coram Dña Regina apud Westm̄ veni A. B. qui tam p Dñm Regim quam p seipso sequitur p C. D. Attorn suum Et pculit hic in Cur̄ dicta Dñe Regine tunc ibidem quandam billam suam versus E. F. in custod Mare &c. de plito transgre & contempe versus eos qui psequuntur in Cur̄ Christianitar post Prohibitionem Regiam prius inde in contrar direct' & delibac Et sunt pleg de Prois scilicet Johannes Doe & Richardus Roe que quidem billa sequitur in hec verba, A. T. A. A. B. qui tam, &c.

## The Plea.

Defendant pleads *Non Cul'* as to the Prosecution, post Prohibitionem Regiam, &c. And for a Writ of Consultation to be had, he pleads a Prescription, that the Plaintiff, &c. did and ought to pay the Tythes in specie, and traverses the modus decimandi—Et modo ad hunc diem (&c.) Et idem C. D. defend vim & iniuri quando, &c. & dic qđ ipse non secus fuit in Cur̄ Christianitatis post Prohibitionem Regiam in contrar inde direct' & delibac modo & forma put p̄dice A. B. qui tam, &c. superius versus eum queritur Et de

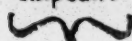


Prohibition

hoc pond se sup pñam & pdict' A. qui tam  
 &c. similis &c. Sed p bzebi dicte Dñe Re-  
 gine de Consultacone in hac parte henc  
 idem C. D. die quod pzed A. S. & omnes  
 ill quoz Stac [&c. and so pleads the Pre-  
 scription, and shews what Tythes are due  
 which the Compl't non solvit seu delibabit  
 sed ill eidem C. solvere recusabit ac ill  
 eidem C. subtrahit unde idem C. ipsum  
 A. coram pñar Iudice Spiritual de &  
 subtractione & non solutione Decimarum  
 pzed' ante Prohibitionem pzed' in contra-  
 dict' & delibac traxit in pñitum put e  
 bene licuit, and traverses the Complai-  
 nant's Prescription for a *Modus* Et hoc pa-  
 rat est verificare unde per Iudic & bzebi  
 pzed' Dñe Regine de Consultacon sibi in  
 hac parte concedi, &c.

Repl'.

Et pzed' A. B. die quod p aliqua  
 pzed' C. superius pñitando allegat idem  
 C. bzebe dict' Dom Regine de Consulta-  
 cone minime habere debet quia ut pñit  
 die qd pzed A. S. Et omnes ill quoz  
 statum [&c. and so maintains the *Modus*  
 modo & forma put pzed A. B. superius  
 versus eum queritur Et hoc per quod  
 inquiratur p pñiam Et pzed' C. D. filii  
 Ideo tam ad triand' erit ill quam pzed'  
 al erit in partes pzed' superius filie jun-  
 bed inde Iur, &c.

*Quare Impedit.**Quare  
Impedit.*

**T**HIS Process lies where a Man hath an Advowson, and the Parson dieth, and another presenteth his Clerk, or disturbeth him who hath the Right to Present, then he may have this Writ of *Quare Impedit*.

And in such Cases where a Man may have an *Affize of Darrein Presentment*, he may have also a *Quare Impedit*.

See more of this in *Compleat Sollicitor*,  
245.

See *Compleat Attorney*, p. 218.

See also *Survey of the Law*. from 234, to  
286.

See *Touchstone of Presidents*, from 205, to  
247.

*Narr' pur Vicaridge in gross que devient  
al' Roy per dissolution'.*

**A**B. summonitus fuit ad respondend' C. D. Nil de placito qd' pmittat eum p'sentare idoneam p'sonam ad Ecclesiam de F. que vacat & ad suam spectat donacionem, &c. Et unde idem C. p. H. S. Atroznatid suum dicit quod cum quidam G. nup Prior Monasterij de H. in Com L. modo dissolue fuit scitus de Advocacione Ecclesie de F. p'dict' ut de uno grosso p se ut de feodo & jure in jure ejus-

Quare  
Impedit.

dem Monasterij idemq; nup Prior de Ad-  
vocatione p̄dicta in forma p̄dicta sc̄itus ex-  
istens ad p̄dictam Vicariam vacantem pre-  
sentabit quendam R. G. Clericū suum  
qui ad p̄sentationem ipsius nup Prioris  
fuit admissus & institutus in eadem tem-  
pore pacis tempore Dñi Henrici nup Re-  
gis Anglie octavi post Conquestū posteaq;  
p̄dicta Advocatio inter alias possessiones  
ejusdem nup Monasterij ad manus &  
possessionem dicti nup Regis virtute cu-  
jusdam Claus in Parlamento ejusdem  
nup Regis anno tricesimo primo debente  
quoq; p̄textu idem nup Rex fuit sc̄itus de  
p̄dicta Advocacione ut de feodo & jure  
idemq; nup Rex sic inde sc̄it existens p̄ Li-  
teras suas Patentes sub Sigillo Curie  
Augmentacionū Reven̄cionū Corone sue  
contectas quas idem C. hic in Curia p̄-  
fert quarum dar est vicesimo primo die  
Augusti Anno (Rc.) debet & concessit inter  
alia eidem C. p̄ nomen (Rc.) Advocacio-  
nem liberam disposicionem & jus Patro-  
nac Vicarie p̄dicta p̄ nomen (Rc.) habendū  
(Rc.) durante vita naturali ipsius C.  
put per easdem Litteras inter alia ple-  
nius liquet quorum quidem doni & con-  
cessionis p̄textu idem C. fuit sc̄itus de  
Advocacione Ecclesie p̄dicta ut de libero  
tenemento ipsoq; sic inde sc̄it existendū Vi-  
caria p̄dicta vacabit per mortem p̄dicta  
R. G. & adhuc vacans existit Et ea ra-  
tione ad ipsum C. idoneam Personam  
ad Vicariam p̄dictam ad p̄sens perti-  
net p̄sentare Et p̄dicta A. eum injuste  
impedit unde dicit quod deteriorae est &  
dammum

Damp-  
num

See

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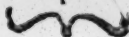


# Of Declarations.

427

Dampnum het ad valenciam ducene libra-  
rum Et inde pduc Sextam, &c.

Quare  
Impedit.



See 1 Bro. 296. 299. 2 Bro. 220.

*Narr' in Quare Impedit sur Graunt de  
Procheine Avoydance.*

**T**B. Episcopus Lincolni & C. D.  
Clericus sum fuit ad respon-  
dend H. S. Mil de placito qd pmittat em  
plentare idoneam personam ad Ecclesiam  
de L. que vacat & ad suam spectat dona-  
tionem, &c. Et unde idem H. p M. B. At-  
torum suum dicit qd cum quidam J. H. Ne  
fuisset seitus de Manerio de L. cum per-  
tin in Dominico suo ut de feodo Et sic  
inde seitus existens ad Ecclesiam illam  
vacantem plentavit quendam P. G. Cle-  
ricum suum qui ad plentationem ipsius  
J. fuisset admissus & institutus in eade  
tempore pacis tempore Dom Regi nunc  
pdicus J. de Manerio predicto cum ptn  
ad quod (&c.) sic seitus existens primo die  
Maij Anno Regni Dom Regi nunc (&c.)  
apud L. predicte p quoddam scriptum suu  
quod idem H. sigillo pdice J. signae hic  
in Cur pferit cujus dac est eisdem die &  
anno p nomen J. H. Ne veri & indubita-  
ti Patroni Rectorie Ecclesie de L. dedit &  
concessit eidem H. per nomen (&c.) pri-  
mam & proximam Advocationem donati-  
onem nominationem plentationem liberam  
dispositionem pdicte Ecclesie de L. pdice Et  
holvit & per idem scriptum concessit quod  
bene

Quare  
Impedit.

bene liceret eidem H. ad p̄dictam Eccle-  
siam quomodocunque & qualitercunque  
p̄ mortem resignatōnem p̄bationem ces-  
sionem permutatōnem dimissionem libe-  
quocunque alio modo p̄ximo & p̄ximo ba-  
care contigerit unum aliquem virum ho-  
nestum & literatum p̄sentare ceteraque  
omnia que ad p̄motionē munus seu offi-  
cium spectaberit p̄ficere p̄ huiusmodi p̄-  
ma p̄ximaq; vacatōne tantum adeo plenē  
& integre sicut idem J. de & in ea parte  
faceret si p̄dictum scriptum suum minime  
fuisse put per idem scriptum plenius ap-  
paret virtute quorum quidem doni con-  
cessionis & p̄formaōnē idem H. fuit de p̄d  
Abbatōne Ecclesie p̄dice p̄o p̄xima & p̄-  
vacatōnē ejusdem possessionis & sic inde  
possessionis existens Ecclesia p̄dice va-  
cabit per mortem p̄dice P. que quidem  
vacatio Ecclesie p̄dice p̄ mortem p̄dice P.  
est p̄xima & p̄xima vacatō Ecclesie p̄  
post bonum concessionem & confirmatōnē  
p̄ p̄lāe J. inde eidem A. in forma p̄  
face Et ea ratōne ad ipsum H. idoneam  
p̄sonam ad Ecclesiam p̄d sic vacantem ad  
p̄sens pertinet p̄sentare & p̄dice Epil-  
copus & C. eum injuste impediunt unde  
dicit quod deteriorae est & dampnum hec  
ad valenciam trescentē Librarum Et inde  
p̄ducē Sextam, &c.

See Bro. R. d. 407. 411. Bro. Vad. 336. Pl.  
Gen. 469. 472, 481, &c.

Narr

*Narr' in Quare Impedit pro Rege super  
Stat. 21 Eliz. de Simoniu.*

Verb' ff. **C**D. Clericus sum fuit ad re-  
spondend' Dom' Regid nunc  
de placito qd pmittat ipsam Dominam  
Regid p'sentare idoneam personam ad  
Ecclesiam de C. que vacat & ad suam  
spectat donationem, &c. Et unde ff. S.  
Mile Attorid dicti Dom' Regid nunc Ge-  
neral' qui pro eadem Dom' Regid in hac  
parte sequitur p'dicta Dom' Regid die qd  
cum p quendam Actum in Parlamento  
Dñe Elizabethæ nuper Regine Anglie a-  
pud Westm' in Com' Midd' Anno Regni  
sui tricesimo primo tene edic (inter alia)  
inactitae existit Authozitate ejusdem Par-  
liamenti qd si aliqua plona sive plone cor-  
pora politica sive corporae ad aliquod tē-  
pus post finem quadragine dierum pr'  
post finem ejusdem Sessionis Parliamen-  
ti p aliqua summa Pecunie munere do-  
no pficuo sive beneficio directe vel indi-  
recte pro seu ratione alicujus promission  
agreementi concessio obligaco conven-  
tion' sive al' assuran' de vel p aliqua Sum-  
ma Pecunie munere dono pficuo sive be-  
nificio quocunq; directe vel indirecte p'sen-  
tarent vel conferrent (Anglice collate)  
aliquam personam alicui beneficio cum  
cura animarum dignitae pbend' sive vi-  
tui Ecclesiastico vel darent aut impen-  
derent (Anglice bestow) eadem p vel in  
respectu alicujus r'is corrupe cause seu  
conf.



Quare  
Impedit.

consideratione quod tunc quelibet talis presentatio donatio & impenlatio (Anglice bestowing) Et quelibet admissio institutio investitura & inductio superinde forent vacue frustrae & nullius effectus in Rege Et quod foret & esset licitum ad & per predictam nuper Regina Eliz. Hered. & Successoribus suis presentare conferre (Anglice to collate unto) vel dare sive impendere (Anglice to bestow) quodlibet tunc beneficium dignitatem prebendam & vicarium Ecclesiasticum cum pro illo uno tempore sive turno tantummodo Quodque omnes & quelibet personae sive persona corpora politica & corporales que extunc deinceps darent vel caperent aliquam summam Pecunie munus donum sive beneficium directe vel indirecte aut que caperent seu facerent aliquam talem permissionem concessionem obligationem conventionem seu aliam assurantiam foris facerent aut perderent duplicem valorem unius annalis proficui cujuslibet tunc beneficii dignitatis prebende & vice Ecclesiastici Et persona sic corrupte capiens procurans querens (Anglice seeking) sive acceptans aliquod tale beneficium dignitatem prebendam sive vicarium Ecclesiasticum superinde extunc deinceps adjudicaretur dissimilis personam in lege habere seu gaudere eisdem beneficii dignitatis prebende sive vicariu Ecclesiasticum put per eundem Aliter in alio plenius apparet Et idem Altorum Generalis per eadem Donum Regine nunc ulterius dicit quod predicta Ecclesia de Q. est & a tempore editionis Statuti predicti & continue extunc postea hucusque fuit beneficium cum cura animarum quodque post finem

quadra-

Quare  
Impedit.

quadrachine dierum pr' post finem dice  
Sessionis p' Parliamenti scilicet vicesimo se-  
cundo die Maij Anno Regni Dom' Caro-  
li Secundi nup' Regis Anglie, &c. trice-  
simo apud E. p'edice int' quandam E. S.  
vid' Matrem & Guardian' R. S. tunc  
infra etatem quatuordecim annorum &  
seie de Advocacione Ecclesie p'edice ut  
de uno grosso p' S. ut de feodo & iure ex-  
istend' & quendam C. D. Clericum (Eccle-  
sia p'edice tunc vacand' existend') Simoni-  
ace & corrupte agreeae fuit qd' p'edice R.  
adtunc Patronus Ecclesie p'edice existend'  
p'sentaret p'edice C. D. ad Ecclesiam p'ze-  
dic' adtunc vacand' existend' ut Clericum  
suum Et qd' in consideration' inde p'dice  
C. D. solveret p'f'ae E. G. magnam Pe-  
cunie Summam videlicet trescentis libe  
sup' quo quidam Simoniacus & corrupto a-  
greamento & in executione & in p'forma-  
tione ejusdem ex parte p'd R. ipse p'dice  
R. p' pcuracionem p'edice E. postea scilicet  
(tali die, &c.) Anno Regni Dñi Caroli  
Secundi nup' Regis Anglie, &c. tricesi-  
mo supradicto ad Ecclesiam p'edice sic ut  
p'f'ertur vacan' p'sentabit p'dice C. D.  
Clericum suum qui ad p'sentationem p'dice  
R. postea scilicet (tali die, &c.) anno tricesimo  
supradicto fuit admitt' institue & induc'  
in eadem Ecclesia p'extu cujus ac vigore  
Statuti p'dicti p'sentatio p'dice C. D. ad  
Ecclesiam p'dice p' p'f'ae R. ut p'f'ertur fact'  
ac p'dice admissio institutio & inductio  
ejusdem C. D. in eadem Ecclesia super  
inde hic penitus vacue in lege debener  
Et ea ratione ac vigore Statuti p'd ad  
dictam

The Simo-  
niacal Con-  
tract.

Forfeiture  
by which  
the King is  
intituled to  
this Action

Replevin.

**W** dictam Dom<sup>m</sup> Regin' nunc idoneam p<sup>ro</sup>-  
nam ad Ecclesiam p<sup>ro</sup>dice sic ut p<sup>ro</sup>fertur va-  
cuam p<sup>ro</sup> hoc tempore & turno ad p<sup>ro</sup>sent  
p<sup>ro</sup>inet p<sup>ro</sup>sentare Et p<sup>ro</sup>dict C. D. ipsam  
Dom<sup>m</sup> Regin' nunc inde injuste impedit  
ad dampnum ipsius Dom<sup>m</sup> Regin' nunc  
ducent librarum. Et hoc idem Attorn<sup>us</sup>  
General' p<sup>ro</sup> dicta Domina Regin' nunc  
parat est verificare, &c.

See 2 Bro. 220. 3 Lev. 12. 2 Lut. 1086.  
1090. Bro. Vad. 304. Clif. 609.

Pro Regin' super Lapsu. Bro. Vad. 367, 368.  
2 Lut. 1083.

Pro Regin' super Stat. de Pluralit. 2 Lut.  
1078. 1083. 2 Bro. 216.

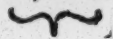
Per Presentationes per Turns un<sup>de</sup> de parts. 2  
Lut. 1118. 1 Bro. 296, 297. Lev. En. 141,  
&c. Bro. Red. 407. Clif. 602. 606. &c.

### Replevin, Avowry and Distress.

Replevin,  
what.

**R**eplevin lieth where one doth distrain  
another for Rent, or any other Cause;  
in this Case the Party distrain'd, and there-  
by grieved, upon giving Security to the  
Sheriff that he will pursue his Action and  
return the Beasts again (if the taking shall  
be adjudged lawful) may have a Writ of  
*Replegiari Facias*, whereby the Sheriff him-  
self must restore the Goods to the owner a-  
gain; and this the Sheriff may do either by  
virtue of the said Writ, or *ex Officio*, and  
without





without any Writ upon a Sute before him in his County Court; and this last way, being most usual, is given by Statute-Law. Replevin by Common Law, is by Writ; by Statute Law, it is by Plaint, *Co. Lit.* 145. given by Statute Law, for the more speedy having of the Goods. And the said Statute provides that the Sheriff shall have four Deputies always in the County to make *Replevins*, dwelling not above twelve Miles distant one from another.

If the Shrieff deliver the Distress, without pledges to Return, &c. he must answer the price of the Distress.

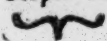
And in the same manner may *Replevin* be made in any Hundred Court or Court Baron, at any time before the Court Day, *West. 2. 13 Ed. 1. 2.*

If the Defendant claim a property in the thing taken, then that matter must be decided before the Sheriff by a Writ *de proprietate probanda*, e're they can proceed any further; and if any thing touching Freehold come in Question, they can no further proceed in the County, Hundred Court or Court Baron, *Co. on Lit.* 145, 161. 4 *H. 6.* 30.

If upon a Trial *de Proprietate Probanda*, it is found for the Plaintiff, of whom the Distress was taken, in such Case the Sheriff is to make Replevin; but if it be found for the other that did distrain, the Sheriff is to surcease; and must return the Claim of the Property upon the Writ that it may be tried above again; where the Property being put in Issue, it shall be finally decided, *Co. Lit.* 145. 2 *H. 7.* 6.

The

Replevin.



The Writ *de Proprietate Probanda*, is out of the Queen's Bench or Common Pleas, if the Sute were depending there, otherwise out of the Chancery.

If after a Replevin brought, the Plaintiff do make default, being Non-sute before Declaration, &c. or Judgment is given against him, then he that distrained the Beasts may have a Writ *de Retorn' Habendo*, and by this he shall have the Distress delivered to him again, 13 Ed. 1. cap. 2.

And if the Distrainer or Owner after the Distress taken, doth carry it out of the County, or keep it in a Hold or Castle, &c. so that the Sheriff cannot make a Replevin or a *Retorn' Habend'* as the Case requires; in this Case the Party grieved may have a Writ of *Whithernam* directed to the Sheriff, for the taking so much of the Parties own Cattle or Goods, instead of the others esloin'd; and if the Goods be put in a Castle, he may take *Posse Comitatus*, and break into the Castle and make a Replevin, West. 1. cap. 17. F. N. B. 73. Dyer 41, 59.

If it be within a Franchise where the Goods are impound'd, the Bailiff of the Franchise by Warrant from the Sheriff, (or if he do not, or will not, the Sheriff) must Replevin the Goods.

If the Plaint be in a Franchise, and the Sheriff make his Warrant to the Bailiff, and the Bailiff return that he cannot come at the Beasts, the Sheriff may enquire of it at the next County Court; and it being found, he may *ex Officio* grant a Precept in the nature of a *Whithernam*, to take so much

much of the Defendants Goods, or he may have the *Wisternam* directed to him out of Chancery, *Dalt. of Sheriffs, fol. 167.*

If the Plaintiff be removed out of the County Court or Court Baron by a *Pone* or *Recordare*, into the Common Pleas, &c. and after the Plaintiff in the Replevin is Non-sute before an Avowry made, or after, in such Case the Defendant may distrain again his Cattel for the same Cause he distrained the first, and the distran'd shall have no Recaption for Damages for such second Distress, and the reason is, because there is no Plea depending. And yet he may sue out a Writ *de Secunda deliberatione* upon the same Record, which is to revive the first Suit, *F. N. B. 72. Dyer 41. n. 4. 5.*

After this Writ of Second Deliverance had, and Trial thereupon, or that the Plaintiff be again Non-sute, before Declaration, then *Retornum Irreplegiabile*, or a Retorn Irreplevisable must be awarded to the Defendant; and then he may make his Avowry, to the intent to ground a Writ to inquire of Damages, or he may hold the Beasts as a Distress till he be satisfied, *Dyer 41, 42, 59, 280.*

If one have sued a Replevin, and have not the Goods delivered, then he that distrained, upon the Plaintiffs alledging it in Pleading and praying Pledges, shall not only avow the Distress, but Gage Deliverance, that is, put in surety that he will deliver the Cattle Distrained, *F. N. B. 74. D.* Yet in some Cases he shall not be tied to make this Security; as if the Cattle died



*Replevin.* in the Pound, or if he claim a Propriety, or where the Distress was taken in the Right of the Crown, *Vide Kitch. fol. 145. 13 H. 4. 13.*

So neither shall a Replevin be granted, when it appears to the Sheriff that the King is a Party, and the taking was in the Right of him, *3 H. 7. Pl. 1 Bro. Rep. 33.* for then the Sheriff ought to surcease.

*Replevin grounded upon Distress.*

The intent  
of Distress.

From what has been said before, it appears, That Replevin is a remedy provided upon a Distress, that the Thing may remain with the first Possessor upon his security, till the Right of Distress be made out by the Distrainer.

And the end of a Distress is this, That by the taking of the Distress, the Party distrained, who is supposed to be the wrong Doer, may be forced either to satisfy the Debt or Duty to the Party distraining, or else to answer him in a course of Law.

Avowry,  
what.

An Avowry is a Plea or Justification made by the Distrainer, &c.

Much may be said concerning the Kind, Method and Manner of Distress. As,

1. Whether it be Real or Personal; Real, as when the Land is distrained upon a Grand Cape, or Petit Cape.

2. Or Personal, as where any moveable things are distrained.

*Distress*

## Of Declarations.

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[Replevin.]

*Distress how to be taken, &c.*

1. In what Case a Man may distrain.
2. Of what things a Man may distrain.
3. What Person shall distrain.
4. At what time.
5. In what place, &c.

See for these in *Survey of the Law*, from page 296, &c. See *Touchst. of Presidents*, 109, &c. *Compleat Solicitor*, *Compleat Attorney* last published 177. where you may read much of Distress and Replevin, &c. and therefore I shall not insist upon it here.

See the late Act for *Distress, Primo Will<sup>d</sup> & Mariae*.

### *Avowry.*

The Declaration in Replevin is short, but generally the Avowry or Justification is long and nice; for he must shew the taking of them to be lawful; and why he took them; whether in his own Right, as as Servant and Bailiff to another, 9 Co. 135.

And this Avowry is said to be in the nature of a Declaration, and therefore must contain sufficient Matter; upon which he may have Judgment to have a return; if therefore it want substance, it will not be good, nor will the Plaintiffs pleading help it: But if it want Form, or omit some Circumstance of Time, Place, &c. in these Cases it may be supplied by the Pleading of the other Party.

E e 2

There

Replevin.

There are several kinds of Avowry, but by reason it is a Justification or Plea, it must be spoke of when we treat of Pleas and Pleadings, which will be handled by it self in a Third Part; in which part it is intended to proceed by Rule and President to the better understanding the nature of Pleas and Pleadings, &c.

Replevin.

ff. **A.** B. sum fuit ad respondens C. D. de pito quare cepit averia ipsius C. & ea injuste detinuit contra vad & pleg, &c. Et unde idem C. per C. S. Actozm suum queritur qd pdia' A. decimo die Januarij Anno Regni Domine Anne nunc Regim Anglie, &c. sexto apud C. in Com pdia' in quodam loco ibidem vocat le Common Field, cepit Averia ipsius C. videlt unum Bobem & duas Vaccas & ea injuste detinuit contra vad & pleg quousq; &c. unde pdia' C. dicit qd deteriorat est & dampnum habet ad valenc decem Libr Et inde pduc Sextam &c.

*Vide* 1 Bro. 304. Bro. Red. 415. Thompi 264. Rob. 141. 2 Saund. 194. 2 Vent. 131, &c. 2 Lut. 1131. 3 Lev. 120. Lev. Entr. 154, &c.

Count



Count upon a Writ of Second Deliv-  
erance.

**A.** B. attach fuit p breve Dñe Re-  
gine de secunda deliberatō ad  
respond C. D. de plito quare cepit unum  
Equum ipsius C. & eum injuste detinuit  
contra vad & pleg &c. Et unde idem C.  
p f. G. Attorn suum queritur quod pre-  
dict' A. duodecimo die Januarij Anno  
Regni Dom Regine nunc Anglie, &c.  
secundo apud W. in quodam loco vocat le  
Little Leasow, cepit Equum pdict' & eum  
injuste detinuit contra vad & pleg quous-  
que &c. unde dic qd deteriorat est & damp-  
num habet ad valenc vigine libe Et inde  
pduc Sextam, &c.

Vide 3 Lev. 105. Pl. Gen. 558. Bro. Red.  
415, 418. 1 Mo. Intr. 316.

## TRESPASS.

**T**respas is a wrong which is supposed  
to be done with Force and Arms,  
sometimes against the Person of a Man,  
and sometimes against that which is his,  
viz. his Goods, &c. And by an Action  
brought for this the Plaintiff shall recover  
Damages according to the wrong done him;  
and the Defendant by strictness of Law is

**Trespass.** to pay a Fine to the King; for the Writ, which is appointed for the remedy of these wrongs, always supposes the wrong to be done *Vie & Armis, & contra Pacem, &c.* Vide Finch's Ley 198.

**Trespass  
divided.**

These Trespasses against the Person of a Man may be divided into several Degrees or kinds. As,

1. Menacing.
2. Assault.
3. Battery.
4. Maim.
5. Imprisonment.

1. Menacing or Threatning, which is, where one doth threaten to do another any hurt.

2. Assault, which is, where one doth unlawfully set upon and attempt to beat another, but doth not.

3. Battery, which is, when one doth unlawfully beat another.

4. Maim, which is, where one doth by any violent Act take from another the use of his Limbs or Members, whereby he is rendered more unfit to serve himself and Country.

5. Imprisonment, which is, where a Man is restrained of his ordinary and lawful liberty, that he cannot go about his business as at other times.

Also the Trespass done against a Man's Goods, &c. may be said to be either against those that are animate or inanimate.

1. Animate

## 441

Trespass.

Also these Trespasses are done, either with pretence of Title, by which the Property is altered, or without pretence of Title.

## Local and Transitory.

have Tref-  
pafs.

Against  
whom.

Principal  
and Acces-



**Trespass.** participate with it after it is done, is a Trespass; and the Party grieved may have this Action against them all, or any of them for it, and if many come to do a Trespass, and they were all present when the Trespass is done, and some of them do only look on, yet they may be all charged as Trespassors, if they do not declare their disassent to it; but where some of them fall into the Company accidentally, it is otherwise, for they may not be sued. *Hob. Pl. 69. Co. Litt. 57. 12 H. 7. 15. Dyer 244. Bro. Tresf. 113, 256. Doct. and Stud. 25.*

**Churchwardens.** Churchwardens must have this Action for the Parish Goods belonging to the Church, but a Parishioner cannot.

**Parson.** And the Parson must have it for a wrong done to the Church or Churchyard, *Bro. Tresf. 289. F. N. B. 90. 21 H. 7. 2.*

**Executors.** Executors may have it for the Testators Goods taken out of their possession. *F. N. B. 92. 117.*

**Joint-tenants.** Joint-tenants must join for a Trespass done upon the Land they hold jointly. *Old Book of Entries 557, 587.*

**Possession.** He that hath but a bare possession of Land, may maintain this Action against him that hath no right. *Plow. 144, 431, 546. 3 H. 6. 32. Vide Kehw. 163.*

He that hath but Herbage, may have it for wrong done to him in the Grass or Herbage. *Dyer* 285. 5 *H.* 7. 10.

A Man and his Wife may have this Husband Action together, for any the least beating, and Wife. or imprisonment of his Wife; but if it be such a beating, as thereby he lose her Company or Service, he alone may have it; so for any hurt done to his Servant, whereby he loseth his Service, 3 *Co.* 113. 5. 108. 10. 130. 20 *H.* 7. 5. 16 *H.* 7. 11. 22 *Ass.*

If a Servant do a Trespass by the Master's Command, both of them may be sued, but if the Servant do more than he is commanded, the Master shall be charged no more than he commanded, but the Servant for the whole, *Dyer* 365. 21 *H.* 7. 21.

The Servant only shall be liable for what he does on his own Head, 13 *H.* 7. 15. *Kelw.* 3.

Observe,

1. As to Menacing, if one do threaten me to my face or behind by Back, to kill or beat me, or lie in wait and watch to do so, insomuch that I dare not follow my business as at other times, and I have any loss by this, I may have this Action for my remedy—— But if he threaten only to sue, or the like, or if I have no special loss by the threatning, no Action, will lie,

Trespass. lie, 18 *Ed.* 4. 28. 10 *Ed.* 4. 28. 7 *Ed.* 4. 24.  
 3 *H.* 6. 18.

**Affault.**

2. As for Affault, if another Man do unlawfully set upon me, attempt to beat me, strike at me, though he do not hit me, or hold up his Weapon to strike at me, being within his reach, thrust, or push at me, cast Stones at me, though he do not hit me, cast Drink in my Face, or upon my Cloaths, or the like, this Action will lie.—— But if one strike at me at a great distance, so that he could neither hit me, or put me in fear of being hit or stricken; or if one strike at me, hurl Stones at me, or do any such like Act as before, merrily or accidentally and not purposely and seriously; in these Cases, and for these Causes it seems no Action will lie, *Bro. Tresf.* 336, 236. 7 *Ed.* 4. 26. 22 *Ass.* 60. *Finch.* 29, 40.

**Battery.**

3. As for Hurt or Battery, if it be done against my Will, or by accident, or by unavoidable necessity, no Action will lie, *Bro. Tresf.* 178, 294. *Hob. Pl.* 176.

**Maim.**

4. In the Case of Maim, if it deprive me of the use of any of the principal Members of my Body, as my Hand, Leg, Finger, Eye, Fore-teeth, or the like, so that I am more unfit for publick Service, I may have this Action, or an Appeal of Maim, which I will, and recover Damages according to my Hurt; but if the Hurt be small, only making a Deformity in the Body, in such Case



Case this Action of Trespafs, Assault and Battery is the only Remedy, *Finch* 204. *Stamf. lib. I. cap. 44.* Trespafs.

5. As to Imprisonment, Observe that when a Man is said to be unlawfully imprisoned, when either there is no good Cause for his Imprisonment, or he that doth imprison him, hath no good Authority to do it; or having good Authority, he doth not pursue it, or doth arrest at a forbidden time, or in a forbidden place, or the like.

If a Man lay hands upon me, and hold me in his Arms, keep me in my own, or another Man's House, tie me to a Tree or Post, put me in a Prison or Stocks, or any other way restrain me of my Liberty against my Will; all these are Arrests and false Imprisonment, 43 *Ed. 3. 20.* *Br. F. Imprif. 37. 10. 9 Co. 66, 69.*

So if one to whom I owe Money, or have done a Trespafs, of his own head, without any Writ, Imprison me till I pay him his Debt, or give him a Recompence for the Trespafs; or if a Man Imprison me till I pay him Money, enter into a Bond or Statute, or make a Release, or the like, in all such Cases I may have relief by this Action, *F. N. B. 88, Old Book of Entries 587.*

And yet where I am duly imprisoned by some Legal Warrant in a false or feigned Suit, though no Money be due, or the Money is paid, or the like, in such Cases I may not have this Action, 43 *Ed. 3. 37.*

As

## Of Declarations.

As for Trespasses done to a Man in that which is his.

As Violence offered to his Wife, Child, Servant, &c. See *F. N. B.* 91. *Old Book of Entries*, 569, 582, 583, 593. *Bro. Tresf.* 388, 609.

For Wrong done to a Man in his House or Lands, *Bro. Tresf.* 25, 41. *F. N. B. Trespass in toto*, *Bro. Tresf. in toto*, *Old N. B. Tresf. in toto*, 9 *Co.* 112.

By cutting off, or taking away Trees, *Vide Perk. Sect.* 58, 59.

By cutting or taking away of Corn or Grass, *Vide 5 Co.* 85. *Bro. Embl.* 26. 5 *Co.* 116. *Co. Lit.* 55. 68. *Dyer* 173. 316. *Perk. Chap.* 512. 523. 37 *H. 6.* 25. 21 *H. 6.* 30. 34 *H. 6.* 33. 28 *H. 8.* 11. *Co. Inst.* 1 part 55. 11. 51. *Dyer* 31. *Perk. Ch.* 519. 7 *H. 4.* 17. 1 *Co.* 55. 5 *H.* 7. 16.

Against an Officer for mistaking the Goods upon Execution, *Dyer* 295. *Kelw.* 129. 119. *Doct. and Stud.* 149. 150.

So for breaking my House, 5 *Co.* 93. 8 *Ed. 4.* 18 *Ed. 4.* 41. *Hob. Rep. Pl.* 62.

About a Distress, 8 *Co.* 147. *Doct. and Stud.* 112. *F. N. B.* 47, 48. 29 *H. 7.* 11. *Bro. Tresf.* 29. 220. 344. *Old Book of Entries*, 570.

See more for what this Action lies, in *Survey of the Law*, *Compleat Sollicitor and Compleat Attorney*, *Townsend's Tables*, &c.

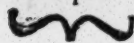
De Clo' fract' Herb. concul' pedibus ambuland', cum continuando.

Note ff. **A.** Nuper de H. in Cond  
respondendo C. D. de plito quare vi & ar-  
mis Cui ipsius C. apud H. fregit & Her-  
bam suam ad valenciam nonagine soli-  
dorum ibi nup crescent pedibus ambulando  
conculcavit & consumpsit & alia enormia  
ei intulit ad grave dampnum ipsius C.  
& contra pacem Domini Regine nunc, &c.  
Et unde idem C. p. J. S. Attorini suum  
queritur quod per A. primo die Martii Anno  
Regni Dñe Regine nunc Anglie, &c.  
quarto vi & armis, &c. cum ipsius C. a-  
pud H. fregit & Herbam suam ad valenciam,  
&c. ibidem super crescent pedibus ambu-  
lando conculcavit & consumpsit transgre-  
ssus quoad conculcationem & consumptionem Herb-  
e a per primo die Martii Anno quarto  
supradicto usque quintum diem Decembe-  
runc per sequens diversis diebus & vicis-  
situdinibus continuando. Et alia enormia, &c.  
ad grave dampnum, &c. & contra pacem,  
&c. unde dicit quod deteriora est & dam-  
num heri ad valenciam decem librarum  
Et inde producit Sextam, &c.

See Cum continuando, 2 Bro. 252. 254.  
Thomp. 292. 410. 361. Rob. 459. Hans. 213.  
16, &c. 1 Bro. 353. 335. Clif. 780. Bro.  
Ad. 419. 2 Lut. 1348, &c.

De





*De cl'o fract' Herba & Blada conculc' &  
Sepibus prostrat'.*

**A.** B. nuper de C. in Comd predicte  
Peoman & C. D. nuper de, (et.)  
attach fuer ad respondens J. H. de plit  
quare vi & armis clum ipsius J. apud  
C. fregeri ac blada & herbam sua ad val  
lene trigrine libe ibidem nuper crescen  
pedibus ambulando conculcabar & con  
sumpler ac sepes suas ibm nuper erec  
pstraver & alia enozmia ei intuleri ad gra  
be dampnum ipsius J. & contra pacem  
Dne Regini nunc, &c. Et unde idem J.  
p M. B. Attoyn suum queritur qd pdic  
A. & C. septimo die Septembris Anno  
(et.) vi & armis, &c. clm ipsius J. apud  
C. fregeri & blada videlt triticum horde  
um siliginem fabas pilas & abenas &  
herbam sua ad valene, &c. ibm nup cre  
scen pedibus ambulando conculcaber &  
consumpler ac sepes videlt tres plicas  
sepium suas ibm nuper erec pstraver  
alia enozmia, &c. (ut supra.)

See Lev. Ent. 219. 2 Lut. 1347. 3 Lev.  
87, 88. 7 Bro. 702. Clif. 723.

De cl'o fract' de Arboribus & Subbosc'  
succis' & asportat'.

Eboi ff. **A**. B. nuper de S. in Com  
fuit ad respondend C. D. de plito quare  
bi & ad armis clm ipsius C. apud S. fre-  
git & arbores & subboscum sua ad valenc  
lex Libi ibm nuper crescen' succidit & as-  
portabit & alia enormia ei intulit ad gra-  
be dampnum ipsius C. & contra pacem  
Dom Regis nunc, &c. Et unde idem C.  
p J. B. Attorn' suum queritur qd pd A.  
octavo die Maij Anno (cc.) vi & armis,  
&c. clm ipsius C. apud S. fregit ac ar-  
bores videlicet decem quercus & decem ul-  
mos & subbosce videlicet triginta carectae  
subboscorum sua ad valenc, &c. ibidem  
nuper crescen' succidit & asportabit & alia  
enormia, &c. ad grave dampnum, &c. &  
contra pacem, &c. unde die qd deteriozae  
est & dampnum het ad valenc quadragine  
Librarum Et inde pduc Sextam, &c.

See 1 Bro. 331. 354. 2 Bro. 278. Bro. Met.

376. Clif. 721.

De

## Of Declarations.

*De clo' fract', Herba concule' & depast'  
de Bonis & Catallis spoliat' & dilac-  
at' cum Porcis.*

ff. **A** B. nup de (Ec.) attach fuit ad re-  
spond C. D. de plito quare vi & ar-  
mis ctm ipsi' C. apud (ec.) fregit & herbam  
sua ad valenc duodecim libraru ibm nup  
crescend cu quibusda averiis depast' fuit  
conculcavit & consumpsit ac bona & catalla  
sua ad valenc centu solidoru ibm nup in-  
vene cum quibusda Porcis dilaceravit &  
spoliavit & alia enozmia ei intulit ad gra-  
ve dampnu ipsi' C. & contra pacem Dne  
Regin nunc, Ec. Et unde idem C. p C. P.  
Attozu suu queritur qd po A. quarto  
die Junij Anno Regni (Ec.) tertio vi & ar-  
mis, Ec. ctm ipsi' C. apud f. fregit & her-  
bam sua ad valenc, Ec. ibid nup crescend  
cum quibusda averiis videlt Equis Bo-  
bus Porcis & Bidentib' depast' fuit con-  
culcavit & consumpsit & bona & catalla sua  
videlt sex paria lodicum linearu (Ang-  
lice Sheets) unum pincitozu (Anglice an  
Apron) (here mention the Goods spoiled)  
sua ad valenc, ec. ibid nup invene cu qui-  
busda Porcis suis dilaceravit & spoliavit  
tinsge po quoad depast' conculcaton & con-  
sumpton' herbe po a po quarto die Junii  
usq septim diem Januar tunc pr' sequen'  
dictis vicib' & dieb' continuando & alia e-  
nozmia, ec. ad grave dampnu, Ec. (as be-  
fore.)

See 2. Lut. 1483. Hans. 218. Bro. Met. 381.

D:



De clo' fract' de solo fosso & terra pro-  
ject' capt' de Arboribus succis' de Ligno  
capt' de Arboribus transcis' defossat' &  
erut'.

II. **A**. B. nup de R. in Comd predict'  
Yeoman attach' fuit ad respons'  
C. D. de plito quare vi & armis ctm ip-  
sius C. apud R. fregit ac in clo suo ibi-  
dem fodit & terram exinde pjecit & ter-  
ram sic inde pjectam ad valenciā no-  
dem libzarum cepit & asportabit necnon  
Arbores suas apud R. pdict' nup crescent'  
succidit ac lignum exinde pvenient' ad  
valenc' quinquagine solidorum cepit &  
asportabit necnon Radices Arborum ip-  
sius C. apud R. pdict' nup crescent' suc-  
cidit transcidit effodit & eruit p quod  
Arbores pdict' ad valenc' decem Libzarū  
totalit' debass' fuer' & perierunt & alia  
enormia ei intulit ad grave dampnum  
ipsius C. & contra pacem Dñe Regine  
nunc &c. Et unde (&c.)

See Clif. 703, 708. 2 Bro. 272, 276.  
2 Lut. 1354.

De captione & imparcatione Ovium absque  
rationabili causa.

II. **A**. B. nup de (&c.) attach' fuit ad  
respons' C. D. de plito quare vi  
& armis triginta Oves ipsius C. apud  
F f (&c.)

Trespas.

**(Tc.)** invene absq rationabili causa cepit & imparcabit & eas in parco ibidem tam diu detinuit qđ Oves p̄dice multiplicie deterioꝛae fueri & alia enozmia ei intulit ad grave dampnum ipsius C. & contra pacem Dñe Regine nunc, &c. Et unde. (Tc.)

*Vide* 1 Bro. 338. Thomp. 362, 393.  
2 Lut. 1439, 1447. Lev. Entr. 202. 2 Bro.  
269. Bro. Red. 478. Bro. Vad. 410.

*De captione & abductione Spadon' de imparcatione inde & de custodiend' eundem sic imparcat' quousque defend' finem fecisset.*

**N.** **A.** nup de (Tc.) attach (Tc.) C. **A.** D. de plito quare vi & armis quendam Spadonem ipsius C. apud (Tc.) nup invene absq causa rationabili cepit & imparcabit & eum sic imparcat' quousque idem C. finem p viginti & octo solidis p deliberatione Spadonis p̄dice cum p̄fate N. fecisset detinuit & alia enozmia (Tc.) (ut in al.)

*Vide* 2 Bro. 283. Rob. 453. 2 Lut. 1439.  
Lev. Entr. 202.

*De Spadone fugat' ad loca incognita & perdit', Thomp. 293.*

*De captione & laboratione Equæ.*

**N.** **A.** B. nup de (Ec.) attach fuit ad respondens C. D. de plito quare vi & armis quandam Equam ipsius C. apud G. nup invene cepit & in tantum laborabit qd p laborationem illam Equa p̄dicta multiplicie deteriorae fuit ac Equam p̄dicta a possessione ipsius C. p magnum tempus detinuit & alia enozmia (Ec.) (ut in al.)

*Vide Thomp. 293. 2 Bro. 172.*

*De Clo' & Domo fract' & de Bonis & Cattallis asportat'.*

**N.** **A.** B. nup de (Ec.) & C. D. nup de (Ec.) attach fuit ad respondens J. H. de plito quare vi & armis Ctm & Domid ipsius J. apud P. freger ac bona & catalla sua ad valenc quadragine Librarid ibidem nup invene cepit & asportaver & alia enozmia ei intuler ad grabe dampnid ipsius J. & contra pacem Dñe Regine nunc Ec. Et unde idem J. p C. S. Attozid suum queritur qd p̄dice A. & C. secundo die Aprilis Anno (Ec.) vi & armis (Ec.) Ctm & Domum ipsius J. apud P. freger & intraver ac bona & catalla sua videlt quatuor Plumbcos Discos (Anglice four Pewter Dishes) un Stanneum Batillium (Anglice one Tin Pan)

F f 2

duc



## Of Declarations.

**W** duo Crea Caldaria (Anglice two Brass Kettles) here mention the Goods taken away) ad valenc<sup>e</sup> &c. ibidem nup invene ceper<sup>t</sup> & asportaver<sup>t</sup> & alia enormia &c. ad grave dampn<sup>u</sup> &c. & contra pacem &c. unde dic<sup>t</sup> q<sup>uod</sup> deterio<sup>r</sup>ae est & dampn<sup>u</sup> her<sup>e</sup> ad valenc<sup>e</sup> cent<sup>u</sup> Librar<sup>u</sup> Et inde pduc<sup>t</sup> Sextam &c.

Vide 2 Bro. 271, 281. Thomp. 351. 2 Lut. 1385.

In Banco Regi<sup>n</sup>.

*De Clo' fract' Herba depast' Arboribus succis' solo fossa & Lapidibus abcaratis cum continuando.*

**N.** **A.** B. queritur de C. D. E. f. & G. H. in'custos Mar<sup>i</sup> &c. de eo q<sup>uod</sup> ipsi (tali die & anno) vi & armis, &c. C<sup>u</sup>m ipsius A. videlt unum C<sup>u</sup>m vocat<sup>r</sup> (&c.) in Com<sup>u</sup> p<sup>ro</sup>dice freger<sup>t</sup> & intraver<sup>t</sup> & herbam suam ibidem n<sup>on</sup> cresc<sup>en</sup> ad valenc<sup>e</sup> sex Librar<sup>u</sup> cum quibusdam Aliis videlt Equis Bobus Vaccis & Bidentibus depast' fuer<sup>t</sup> conculcaver<sup>t</sup> & consumpser<sup>t</sup> ac Arbores videlt centum quercus quinquagine fraxinos trigine Arbores vocat<sup>r</sup> Maples vigine malos vocat<sup>r</sup> Crabtrees, & ducene caretas subbolci suas ad valenc<sup>e</sup> sexagine Librarum ibidem nup cresc<sup>en</sup> adtunc & ibidem succider<sup>t</sup> ceper<sup>t</sup> & abcaritaver<sup>t</sup> ac in solo ipsius A. adtunc & ibidem foder<sup>t</sup> ac lapides videlt decem caretas

rectae lapidum voc Rough-stones ipsius  
**A.** ad valenc' vigine solidorū exinde ef-  
 fossae adtunc & ibidem ceper' & abechariaber  
 transgē p̄dīa' quoad depast' conculcatōm  
 & consumptōm herbe p̄dīa' a p̄dīa' quinto  
 die Augusti Anno (et.) supradīa' usq;  
 diem impetraōnis huius ville scilt (tal  
 die & anno) distis diebus & vicibus con-  
 tinuando & alia enozmia ei intuler' contra  
 pacem Dñe Regine nunc & ad dampnum  
 ipsius **A.** ducenē librarum Et inde pduc  
 Sextam, &c.

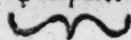
Vide Clif. 707, 709, 724, &c. 2 Lut.  
 1487. Hanf. 224, &c.

*Count pur Pischer' in le seperal' Pischary  
 del Plaint.*

**A.** **B.** n. p. de (et.) attach fuit ad  
 respons' **C. D.** de plito quare vi  
 & armis in seperal' Piscaria ipsius **C.**  
 apud **B.** piscac' fuit & pilces inde ad va-  
 lenē decem librarum et. cepit asportabit &  
 alia enozmia (et.) & unde (et.) p **J. G.**  
 Attorū suum queritur qd p̄dīa' **A.** septi-  
 mo die Julij Anno (et.) vi & armis, et.  
 in sepal' Piscaria ipsius **C.** apud **B.** pil-  
 cac' fuit & pilces videlt centum Turbetts,  
 inde ad valenc' et. cepit & asportavit & alia  
 enozmia et. ad grave dampnū & contra  
 pacem, et. unde dic' (et.)

Vide Hanf. 217, 222. 1 B. o. 337. Clif.  
 734.

Trespals.



*De fugatione Equæ de verberatione ma-  
letratione & minatione servient' quer'  
per quod negotia quer' infect' remanser'.*

ff. **A.** B. nup de (Ec.) attach' fuit ad  
respondend' R. S. de plito quare  
bi & armis unam Equam ipsius R. a-  
pud D. nup indene cepit & in tane fu-  
gabit qd p fugationem illam Equa illa  
precij sex Librarum multiplicie deterio-  
rac fuit necnon in quendam M. B. ser-  
vied' ipsius R. insule fecit & ipsum ver-  
berabit vulnerabit & maletractabit ac ei-  
dem M. de vita & mutilatione membro-  
rum suorum in tane contaminac fuit qd  
idem M. ad negotia ipsius R. ibidem  
faciend' ob metum minarum illarum in-  
cedere non ausus est p quod negotia pre-  
dia' R. infect' remanser' idemq; R. ser-  
vitium servied' sui predia' p magnum  
tempus amisit & alia enozmia, &c. ad  
grave dampnū, &c. & contra pacem, &c.  
Et unde (Ec.)

*Vide 2 Lut. 1496. Clif. 739. 1 Bro. 221.  
2 Bro. 260. Thomp. 389, 293. Lev. En. 15.  
Bro. Vad. 4.*



For breaking open the Plaintiff's Hampier, and taking out Hares and Pheasant Cocks, &c.

**R.** M. nuper de H. in Comd pzedice  
dend N. B. Ne de plico quare vi & ar-  
mis Ctm ipsius N. apud J. fregit ac  
bona & catalla sua ad valenc 40 s. ibi-  
dem nuper invenc fregit lacerabit & spo-  
liabit ac alia bona & catalla ipsius N.  
ad valenc al 40 s. ibidem similie nup in-  
venc cepit & asportabit & alia enozmia  
ei intulit ad grave dampnum ipsius N.  
& contra pacem Dñe Regine nunc, &c.  
Et unde idem N. p R. S. Attornd suum  
queritur qd pzedic' J. decimo die Maij  
Anno Regni Dñe Regine nunc secundo  
vi & armis, &c. Ctm ipsius N. apud J.  
fregit & intrabit & bona & catalla sua vi-  
dest un' Hanaparium (Anglice Hampier)  
ad valenc &c. ibidem nuper invenc fre-  
git lacerabit & spoliabit ac qd' p'dic' R.  
p'dic' decimo die Maij Anno secundo  
supradic' vi & armis &c. apud J. p'dic'  
al bona & catalla ipsius N. videst sex  
par' Lepornd (Anglice six Brace of Hares)  
& septem par' Phasianorum (Anglice se-  
ven Brace of Pheasant Cocks) ad valenc  
&c. ibidem similie nup invenc cepit &  
asportabit Et alia enozmia &c. ad grave  
dampnum &c. & contra pacem &c. unde  
dic qd deterioz ac est & dampnum habet

Trespals. ad valencē centum solis Et inde pduc  
Sectam, &c.

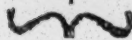
Note, The Defendant pretended to open the Hampier by Virtue of a Warrant to search for Game destroyed by Pochers, &c.

For a desperate and vehement Assault and Battery.

**W** C. queritur de H. R. in custodi  
Marri &c. de eo qd ipse (tali die  
& anno) vi & armis &c. in & sup eundem  
M. apud O. in Com pdiat' insulsum fe-  
cit ipsumq; M. adtunc & ibidem verberavit  
vulneravit & maletractavit ac unum ictum  
tam violentem capiti ipsius M. incussit  
qd idem M. vi ictus illius in terram de-  
ject' fuit ipsumq; M. sup terram ibidem  
jacentem tot ac tantis ictibus verberavit  
tam pedibus suis calcitrando sup ven-  
tre[m] quam manibus suis sup latera pec-  
tiendo qd idem M. p mortuo jacebat ac  
ratione ictuum pdiat' p magnum tempus  
videl[icet] p spatium trium mensium tunc  
prox' sequen[te] egritudine laboravit & in  
maximo periculo vite sue amissionis re-  
mansit & alia enormia eidem M. adrum  
& ibidem intulit contra pacem Dñe Re-  
gine nunc & ad dampnu[m] ipsius M. centu[m]  
Libi Et inde pduc Sectam, &c.

See Hansf. 12. Also see after.

Trespals

Trespas, *pedibus ambulando tantum*

**F**. G. queritur de R. B. in custodi  
 . Mari, de eo qd ipse (tali die &  
 anno, &c.) vt & armis, &c. Clausum ip-  
 sius f. G. jacen' & erissen' in H. in Com  
 pdice apud H. pdice in Com pdice fregit  
 & intrabit & herbam suam ad valene  
 (&c.) ibidem nup crescen' pedibus suis  
 ambulanda conculcabit & consumpsit &  
 al' enozmia eidem f. adtunc & ibidem in-  
 tulit contra pacem dice Dom Regis nunc  
 & ad dampnum ipsius f. 10 l. Et inde  
 pduc' Sextam, &c.

See 1 Bro. 353. Bro. Reil. 475. Re. Dec.  
 416. Thomp. 409. Rob. 457, &c.

*Transgr' pro parco fracto.*

**P**. D. queritur de M. R. in custodi  
 . Mari p eo videlt qd idem P. (tali  
 die & anno) apud S. in quibusda clausis  
 terre & pastur' ipsi' P. voc', &c. Aberia vi-  
 dest quatuor Bobes quinq' Vaccas & septem  
 Subencas p'd M. cepisset & blada & herba  
 in eisdem Clausis tunc crescen' depascen'  
 conculcan' & consumen' ac dampnum ibi-  
 dem facien' idemq' P. Aberia p'd p dam-  
 pnis ibidem fact' apud S. imparcasset p'd  
 M. eode (&c.) Anno (&c.) vi & armis,  
 Parcum il' fregit & Aberia p'd cepit ab-  
 duxit & al' enozmia eidem P. adtunc & i-  
 bidem

*ought it must be  
 1000 q. ipse.*



T<sup>ri</sup>cap<sup>is</sup>.

bidem intulit contra pacem dice Dom<sup>us</sup> Regi<sup>n</sup> nunc unde idem P. dic qd ipse de-  
teriorat est & dampnum habet ad va-  
lenc<sup>ie</sup> centum solidorum Et inde pduc<sup>it</sup> Se-  
xtam, &c.

See Presidents, *De Parco fracto*, 1 Bro.  
334. Clif. 545. Rast. 444. &c. Co. Entr.  
407, 408.

*De rescous' districtionis*, &c. *super Stat. 2.*  
*W. & M.* Clif. 546. 548, 549, 551, &c. 2  
Lut. 1249. 1259.

See Case *Vers' rescussor' districtionis*, Br.  
Red. 59. Rob. 12.

For taking the Plaintiffs Goods and con-  
verting them to his own Use.

**I** W. queritur de L. M. in custodi-  
a. Mare, &c. de eo qd ipse (&c.)  
Anno (&c.) vi & armis &c. bona & cata-  
la pdice J. W. videlicet (&c.) ad valenci-  
am (&c.) apud S. in Com<sup>itatu</sup> pdice in bene cepit  
& alportavit & in usum suum proprium con-  
vertit & disposuit & alia enormia ei in-  
tulit contra pacem dice Dom<sup>us</sup> Regi<sup>n</sup>  
nunc ad dampnum ipsius J. 20 l. Et  
inde pduc<sup>it</sup> Sextam, &c.

For lu

G  
Anno  
ipsius  
cum  
dit ne  
Anno,  
ipsius  
quibu  
aures  
predic  
bertis  
pdicaz  
momo  
one m  
enorm  
Regin  
Et ind

See  
fugat.  
Bro. R.  
De n  
De  
fict, &c.  
lastr.

For

For hunting his Swine with Dogs, tearing off their Ears, &c.

**G**. B. queritur de F. C. in custod  
Anno (Ec.) vi & armis, Ec. quinq; Porcos  
ipſius G. pꝛec (Ec.) in Com pꝛice invene  
cum quibusdam canibus ipſius F. occi  
dit necnon de eo qđ ipſe (tali die, Ec.  
Anno, Ec.) vi & armis decem porcellos  
ipſius G. pꝛec (Ec.) apud R. invene cum  
quibusdam canibus ſuis venae fuit &  
aures porcelloꝝum pꝛedice cum canibus  
pꝛedice ebulſit eodemoꝝ porcellos in di  
verſis partibus corpoꝝum porcelloꝝum  
pꝛedice in tantum cum canibus pꝛedice  
momozdebat qđ porcelle pꝛedice ea occaſi  
one multiplicite pejoꝛae fuerunt Et alia  
enozmia ei intulit contra pacem dice Dñe  
Regine nunc ad dampnum ipſius G. 20 l.  
Et inde pꝛoduc Sextam, Ec.

See Hans. 221. De ſpad', &c. percuff. &  
fugat. Thomp. 343. 2 Lut. 1394. 1410, 1467.  
Bra. Rad. 496.

De moloffo percuffo qđ interit 1 San. 82.  
De duobus canibus venaticis capt' & inter  
fici, &c. 3 Lev. 25. Clif. 704. 735. 1 Mod.  
Inſtr. 307.

Trespas



## Of Declarations.

Trespafs for tearing a Bond, &amp;c.

**R.** G. queritur de H. B. in custodi-  
die & anno) vi & armis, &c. unum scrip-  
tum obligatorium ipsius A. sigillo ip-  
sius H. sigillat p quod p̄s H. stetit obliga-  
tione A. in Summa 30 l. legalis mone-  
Anglie apud P. in Com p̄dice invene-  
pit & sigillum eidem scripe obligatōe affix-  
& appendend ab eodem scripto dilacerabit  
p quod scripe obligatorium p̄dice vacuū  
devenit Et eidem A. de debito p̄dice pe-  
nit<sup>9</sup> defraudat existit & alia enozmia, &c.

See Bro. Met. 374. Hans. 220. 1 Bro. 338  
Thomp. 292, 293. Clif. 704. 716. Bro  
Vad. 406.

De contrafectione scripti. Cl. Man. 381. 385

For chasing the Plaintiff's Sheep with  
Dogs, &c.

**T.** A. queritur de S. W. in custodi-  
die & anno, &c. de eo qd ipse (tali di-  
& anno, &c.) vi & armis &c. Clausum ip-  
sius T. apud W. in Com p̄dice fregit  
intravit & sexaginta Oves ipsius T.  
ibidem invene cum quibusdam canibus  
fugavit canes illi ad mordend Oves  
conlue in tantum incirando quod p  
gationem illam & morsus canum p̄dice  
pigrine Oves de Ovis p̄dice p̄terit (&c.)

interio



interierunt & Oves residue multiplicie  
eteriorar fuerunt Et alia enozmia ei in-  
tulit contra pacem dice Dñe Regiñ nunc  
ad dampnum ipsius T. R. 20 l. Et inde  
pduc Sextam, &c.

See 1 Saund. 220. Clif. 705. 723. 731.

For breaking his Free Warren and de-  
stroying his Partridges.

**A.** B. queritur de C. D. in custodi  
Mari &c. de eo qd ipse (tali die &  
anno) vi & armis, &c. liberam Warren-  
nam ipsius A. apud B. in Com p'dice  
fregit & in ea sine licentia ipsius A. au-  
cupavit & viginti Perdices adtunc & ibi-  
dem cepit & alia enozmia ei intulit con-  
tra pacem dice Dñe Regiñ nunc ad dam-  
pnum ipsi⁹ A. 10 l. Et inde pduc Sexta, &c.

See Bro. Red. 483. Hans. 221. 223.

For Trespasles, and killing his Conies, &c.

**H.** queritur de T. R. in custodi  
Mari &c. & de eo qd ipse (die  
&c. anno &c.) vi & armis, &c. seperal'  
Claiptus H. R. voc (&c.) jaced & existend  
in Paroch de G. in Com D. p'dice apud  
G. p'dice in Com p'dice fregit & intravit  
& herbam suam ad valenc, (&c.) in Clis  
p'dice nuper crescent pedibus suis ambu-  
lando conculcavit & consumpsit Acetiam  
bona

Trespas.

**W** bona & catalla ipsius H. videlt tres car-  
rectae ligni ad valenc (Ec.) in Clis nup  
existenti cepit & asportabit necnon Cuni-  
culos videlt 40 par Cuniculorum ad va-  
lenc (Ec.) in eisdem Clis similie nup in-  
vene cepit necuit & asportabit & alia e-  
nozmia Ec. (ut antea.)

See 1 Bro. 338. 483. Clif. 712. Thomp.  
291. 387. Rob. 459. Hans. 211. 216. 218.

*Sur Assault, Battery & fals' Imprison-  
ment'.*

**N.** **A** B. nuper de (Ec.) & C. D. nuper  
de (Ec.) attach fuer ad respondi  
H. S. de plito quare vi & armis in ip-  
sum H. apud P. insule fecer & ipsum ver-  
beraver vulneraver malettractaver & im-  
prisonaver & ipsum ibidem in Prisona  
contra legem & consuetudinem hujus  
Regni Anglie diu detinuer & alia enoz-  
mia ei intuler ad grave dampnum ipsius  
H. & contra pacem Domi Regis nunc, &c.  
Et unde idem H. p R. G. Attorn suum  
queritur qd pdice A. & C. (tali die &  
anno) vi & armis videlt Gladiis Ba-  
culis & cultellis in ipsum H. apud P.  
insule fecer & ipsum verberaver vulne-  
raver malettractaver & imprisonaver &  
ipsum ibidem in Prisona contra Reges &  
Consuetudines hujus Regine Anglie diu  
videlt & spatium trium dierum detinuer  
& alia enozmia (ec)

See

See 1 Bro. 218. 221. Bro. Met. 375. Lev. Trespals.  
 Est. 191. Bro. Met. 375. 2 Bro. 145. Thomp.  
 336, 367. 2 Ven. 189. Reads. Dec. 402, 403,  
 404. 2 Lut. 925. 946. Bro. Red. 477. 505.  
 1 Mod. Intr. 386. 2 Mod. Intr. 308, &c.

*Narr' inde versus Defend' eo qd' ven' cum  
 aliis in Romeam suam & insult' fecit  
 super ipsum Uxorem & Servientem  
 suum & Arrestavit & Imprisonavit  
 Servientem sine Causa.*

**A**ddidit. B. queritur de C. D. in  
 ipse pdice C. simulcum quibusdam G. F.  
 & J. K. quinto die Julij Anno (sc.) vi &  
 armis sc. quondam Romeam ipsius A.  
 per pdice C. ei antetunc dimissis existend  
 in Domo Montonal pdice C. situae in le  
 Strand videlicet in Parochia Sancti Cle-  
 mentis Dacorum in Com pdice fregit &  
 in ipsum A. insule fecit & ipsum A. in  
 queta possessione & occupacione Romee  
 sue pdice disturbabit necnon eidem A.  
 tales & tantas minas tam de vita sua &  
 verberacione ipsius A. quam de Arresta-  
 tione & Imprisonamene ipsius A. adtunc  
 & ibidem imposuit necnon tantis inju-  
 riis & gravaminibus videlicet insule &  
 affraus adtunc & ibidem affecit qd' idem  
 A. circa negotia sua necessaria videlicet  
 emptiois vendicois & licite barganizacois  
 ac collectiois debito suorum exinde accre-  
 scend & lucrum & pficuum inde faciend ob-  
 metum



Trespafs.

metum minarum illarum palam incedet non audebat sicq; negotia sua pcedere per magnum tempus videlicet per spatium vigine dierum tunc p' sequen infecta remanser necnon adtunc & ibidem in quandam H. tunc & adhuc Ar' pcedit A. existend & adtunc sub magna egritudine & infirmitate corporis laborand insule fecit & pcedit H. Uxor ipsius A. ut pceditur egram & infirm existend adtunc & ibidem in tantum perterrituit & consternabit ita qd eadem H. ockone inde in maximum periculum vite sue devenit p quod pcedit A. confortium & servitium Uxoris sue pcedit per magnum tempus videlicet per spatium unius mensis & amplius amisit necnon de eo qd pcedit C. simul cum pcedit G. & J. eodem quinto die Julij Anno Ec. supradicto apud (Ec.) vi & armis Ec. in quendam C. B. adtunc servient ipsius A. existend insult fecit & ipsum C. sine aliquo legali Warranto auctoritate sive aliqua rationabili causa arrestavit & ipsum C. per spatium quinq; dierum apud (Ec.) imprisonavit & detinuit per quod pcedit A. per tempus pcedere servitium servientis sui pcedit totalit pdidit & amisit & alia enormia eidem A. intulit contra pacem dicti Domi Regine nunc & ad dampnum ipsius A. centum Librarum Et inde pcedit Duc Sextam, &c.

For an Assault and taking away his Wife.

**E** R. queritur de J. W. in custod' Mari' &c. de eo qd ipse (tali die & anno) apud E. in Com' predict' vi & armis &c. A. urorem ipsius J. R. ibidem invent' cepit & eam adtunc & ibidem cum diversis bonis & catallis & denar' Summis ipsius J. viz. 10 l. adtunc & ibidem invent' cepit & abduxit & adhuc injuste detinet contra pacem dict' Dom' Regine & contra formam Statuti inde edit' & probis & alia enormia &c. Vide postea pag. 455.

*De raptu Uxoris Quer' & eam cum Bonis & Catallis Viri detinendo.*

**A** B. nuper de (Ec.) & C. D. nuper de (Ec.) attach fuer' ad respond' R. H. Gen' de placito quare vi & armis M. Urorem ejus apud London' rapuer' & eam cum bonis & catallis ejusdem R. abduxer' & ea ab eo detinent & alia enormia ei intulerunt ad grave dampnum ipsius R. & contra pacem Dom' Regine nunc & contra formam Statuti in huiusmodi casu probis &c. Et unde idem R. per S. C. Actoꝝ suum queritur qd predict' A. & C. (tali die & anno) vi & armis M. Urorem ipsius R. apud London' in Paroch' beate Marie de Arcubus in Warda de Cheap

G. g

Cheap

Trespas.

**C**heap rapuer & eam cum bonis & catal-  
lis videlicet una Toga (Anglice one  
Gown) & uno Galero cum ligamento  
(Anglice a Beaver-hat and Band) (here  
mention the Goods detained) ipsius &  
abduxer & ea adhuc ab eo detinent &  
alia enozmia &c. ad dampnum ipsius &  
quingentarum librarum Et inde produ-  
cetam &c.

See 1 Bro. 388. 2 Bro. 282. Hans. 222.

*Qd' Def. stupravit & carnaliter cogn' Fi-  
liam & Servientem Quer' & ipsa mgra-  
vidam adeo fec' qd' Quer' Servitium  
suum amisit.*

**A**B. nuper de (&c.) Attach fuit  
ad respond' C. D. de placito  
quare vi & armis Elm & Tomum ip-  
sius C. apud D. fregit ac quandam S.  
filiam & Servientem ipsius C. adtunc &  
ibidem existentem illicite stupravit & carna-  
liter cognovit & consortium ipsius S.  
adtunc per magnum tempus illicite fre-  
quentabit ipsamq; S. impregnabit gra-  
vidamque adeo fecit qd' p'dice S. Ser-  
vitium p'dice S. filie & Servientis ejus  
p'dice tam octone stupri p'dice quam im-  
pregnationis p'dice per totum tempus  
p'dice ac diu postea totaliter perdidit  
& amisit idemque C. cum tota familia  
sua ea octone in grave scandalum & in-  
famiam



# Of Declarations.

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famiam & depauperationem incidit & alia  
enormia (&c.)

Trespas.

See Bro. Red. 486. 2 Lut. 1496. 1 Bro. 221.  
2 Bro. 260. Thomp. 389. 392. Bro. Red. 486.  
Lev. Ent. 15. Bro. Vad. 442.

*Transgr' pro impositione in Cippis sine  
rationabili Causa.*

**A** queritur de C. D. & J. R. in  
custod' Marti &c. de eo qd ipsi  
(tali die & anno) vi & armis &c. in ip-  
sum A. apud B. in Com' predicte in pace  
Det & dice Dom' Regine existend' insule  
fecer' & ipsum A. adtunc & ibidem p fe-  
lonia p ipsum ut ipsi tunc asseruer' com-  
missa maliciose reperiunt & arrestaverunt  
Et ipsum A. adtunc & ibidem videt a-  
pud B. predicte in Cippis (Anglice in the  
Stocks) & in aperto mercato ibidem tunc  
tene locae imposuer' & imprisonaver' ip-  
sumq; in Cippis pd cum Sera (Anglice  
a Lock) super eisdem Cippis serae & infir'  
adtunc & ibidem sine Causa rationabili  
& contra Legem & Consuetudinem hujus  
Regni Anglie p spatium trium horarū  
extunc pr' sequend' detinuer' contra pacem  
dicte Domine Regine nunc ad dampnū  
ipsius A. centum librarum Et inde pduc  
Sectam, &c.

See Clerks Man. 378. And see before of  
Battery and false Imprisonment.

Trovet.

# T R O V E R.

**T**Rover and Conversion being a kind of Action upon the Case, may be properly applied to that General Head.

This Action lies for me against any other Person, that having gotten into his Possession any of my Goods, doth refuse to deliver them upon Demand.

*Vide Detinue.*

And this is in its nature but a Special Action of the Case to recover Damages; and it hath been held, that generally where in any Case another hath any thing of mine, that I may have a Detinue for them. After I have demanded them, and he hath denied them, I may have this Action or a Detinue for them, which I will, *Stiles Reg. 6. 1 Cro. 781.*

And it is held, that a Denial to deliver upon Request, is a Conversion, *1 Cro. 10 Co. 56.*

It will lie for Money in a Bag or Chest, or for so many pieces of Gold, at so much a piece, or for so many pieces of Silver in certain, also for any live Goods, as Horses, Oxen, Hens, &c. or things inanimate, as Rings, Carpets, Woods or Trees cut down, and the like; so for things that have been *feræ naturæ*, as for Deer, Hawks, &c. but this must be after they are reclaimed.

For

## Of Declarations.

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Trover.

For this Action will not lie for them whilst *feræ naturæ*, nor for any part of a Freehold; as for Lead upon the House, while it is so; but after it is taken off, if it be converted, it will lie for it.

To maintain this Action, these things are necessary to be observed,

1. That the Plaintiff hath a right to the thing, 11 Co. 89.

2. That the Defendant hath or had it in his possession, *Idem*.

For it has been held that this Action will lie against any Man that hath had my Goods and converted them; as if my Horse have been sold by Twenty Men, I may bring this Action against any of them, and that it will lie against any one that hath the possession of the Goods, though he hath them by borrowing. But note, It's said the Possession must not have been removed by Act of Law, as Seizure, &c. *Idem*.

3. A Demand of the Goods and Denial is necessary to prove the Conversion, else a Man that finds Goods may not know the Owner, and to whom to deliver them.

4. These things must be set down in the Declaration, but the time of the Conversion is not so needful.

This Action is more used than *Detinue*, because in this the Defendant cannot wage Law.



## Trover for a Gelding.

London. **A.** B. queritur de C. D. in  
videlicet quod cum predictus A. primo die Septembris Anno Regni Domini Anne nunc Regine Anglie, &c. quinto apud Londoniam predictus videlicet in Parochia Beate Marie de Arcubus in Warda de Cheap possessionat' fuit de uno Spadone (Anglice a Gelding) pretij vigine librarum ut de Spadone suo proprio & sic inde possessionat' existens idem A. postea scilicet predictus primo die Septembris Anno quinto supradicto apud Londoniam predictus in Parochia & Warda predicta extra manus & possessionem suas casualiter perdidit & amisit qui quidem Spado sic amissus postea scilicet predictus primo die Septembris Anno quinto supradicto apud Londoniam predictus in Parochia & Warda predicta ad manus & possessionem predicti C. per inventionem devenit predictus tamen C. sciens Spadonem predictum fore Spadonem ipsius A. proprium & ad ipsum A. de jure spectare & pertinere machinans tamen & fraudulenter intendens eundem A. in hac parte callide & subdole decipere & defraudare Spadonem predictum licet sepius requisitus, &c. eidem A. nondum delibavit sed idem C. Spadonem predictum postea scilicet decimo die Septembris Anno quinto supradicto apud Londoniam

\* Naming  
such Goods  
for which  
the Action  
is brought.

Londond p̄dice in Paroch & Warda p̄dice in usum suum proprium convertit & disposuit unde idem A. dicit quod ipse deteriorat est & dampnum het ad valene trigine Librarum. Et inde p̄duc sectam, &c.

See Cl. Aff. 232. Vidian 266.

The like in *Common Pleas* for a Saddle.

ff. **A.** B. nuper de C. in Com p̄dice Neom Attach fuit ad respons D. E. de p̄lito t̄nsgr sup Calum & unde idem D. per f. G. Attor̄m suum queritur quare cum p̄dice D. p̄mo die Novemb̄ris Anno Regni Domine Regine nunc sexto apud H. possessionat' fuisset de un̄ Ephippio (Anglice a Saddle) p̄cij 40 s. ut de Ephippio suo proprio & sic inde possess' existend' idem D. Ephippium p̄dict' extra manus & possessionem suas casualiter perdidit & amisit quod quidem Ephippium postea scilicet p̄dict' p̄mo die Novemb̄ris Anno sexto supradicto apud H. p̄ ad manus & possessionem p̄dict' A. per inventionem devenit p̄dict' tam A. sciens Ephippium p̄dict' fore Ephippium ipsius D. propri' & ad ipsum D. de jure spectare & pertinere machinans tamen & fraudulent' intendens ipsum D. de Ephippio p̄dict' callide & subdole decipere & defraudare Ephippium p̄dict' licet sepius requisit' fuisset eidem D. non deliberabit set C.

Trover.

phippium edice postea scilicet secundo die  
Novembꝛis Anno sexto supradicto apud  
H. pdice in usum suum proprium conver-  
tit & disposuit ad dampnum ipsius D.  
centum solidis Et inde pduc Sextam, &c.

*Note,* Most of these Presidents in the  
*Common Pleas* are by first setting forth the  
Writ, and then the Plaint, as in the Second  
President following; but this short way is  
sufficient, and now most used.

The like brought by an Executor for  
Goods which came to the Defendant's  
Hands after the Death of the Te-  
stator.

Verb ff. **A**. B. nup de C. in Com pdice  
Neom attach fuit ad re-  
spondend C. f. Executor Testi G. H. de  
pcto trnsge sup Calum & unde idem C. p  
J. H. Attorn suum queritur quare cum  
pdice G. in vita sua scilicet (tali die  
& Anno) apud C. possessionar fuisset de  
diversis Bonis & Catallis videlicet de  
uno pecio Auri Cuneae (Anglice vocae  
a Gunea,) de uno Poculo Argenteo (An-  
glice a Silver Cup) (here mention the  
Goods for which the Action is brought) ad  
valentiam decem librarum ut de Bonis  
& Catallis suis ppiis & sic inde posses-  
sionar existens idem G. primo die Aprilis  
Anno (&c.) apud C. pdice condidit Testa-  
mentum & ule Voluntatem sua in scri-  
ptis & per eadem constituit & ordinavit  
eundem

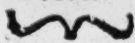


eundem E. fore Executozem Testamenti sui p̄dict' & postea scit secundo Die Maij Anno (Ec.) supradict' apud E. p̄dict' obiit de eisdem Bonis & Catallis possessionae post cuius mortem scit decimo die Julij Anno (Ec.) supradicto apud E. p̄dict' Bona & Catalla p̄dict' ad manus & possessionem p̄dict' A. p̄ invenzionem debenerunt p̄dict' tamen A. sciens Bona & Catalla p̄dict' fore Bona & Catalla ipsius E. ppria & ad eundem E. ratione Execuconis Testamenti p̄dict' de jure spectare & pertinere ac machinans & intendens eundem E. de Bonis & Catallis p̄dict' decipere & defraudare postea scit eodem decimo die Julij Anno (Ec.) supradicto apud E. p̄dict' Bona & Catalla p̄dict' in usum & commodum ipsius A. pp̄ convertit & disposuit ad dampnum ipsius E. origine Librarum ac in retardacone Execuconis Testamenti p̄dict' Et inde pducit Sextam Ec. Et p̄fert hic in Curia Literas Testamentarias p̄dict' G. p̄ quas satis liquet Cur hic ipsum E. fore Executozem Testamenti p̄dict' Et inde habere Administracionem, &c.

See 1 *Mod. Intr.* 15, 16. *Rob.* 80, 447. *Tre. Tro.* 145, 152. *Bro. Red.* 153.

See the like by an Administratrix for Goods which were in her Possession after the Testator's death. *Thomp.* 32.

Trover.

 The like brought by a Man and his Wife, she being Executrix to the Testator, in whose life the Goods came to the Defendant's Hands.

It. **A**. B. nuper de L. in Comd p̄dicta' Weaver, attach fuit ad respondens C. D. & Marie. Uxor ejus Executrici Testamenti J. S. de p̄lito quare cum p̄dicta' J. in vita sua scit (tali die & anno) apud D. possessionae fuisset de diversis Bonis & Catallis ad valentiam sex Librarum ut de Bonis & Catallis suis p̄p̄ & sic inde possessionae existens idem J. in vita sua Bona & Catalla p̄dicta' extra manus & possessionem suas casualiter amisit que quidem Bona & Catalla postea scit (tali die & anno) apud L. p̄dicta' in vita p̄dicta' J. ad manus & possessionem ipsius A. p̄ invenconem debenerunt p̄dicta' tamen A. sciens Bona & Catalla p̄dicta' fuisse Bona & Catalla que fuerunt p̄dicta' J. in vita sua & ad p̄fate Mariam post mortem p̄dicta' J. (dum ipsa sola fuit) necnon ad p̄dicta' C. & Mariam post desponsalia inter eos celebrata de jure spectare & pertinere ac machinans p̄fate C. & M. post mortem p̄dicta' J. de Bonis & Catallis p̄dicta' decipere & defraudare Bona & Catalla p̄dicta' eidem Marie post mortem p̄dicta' J. (dum ipsa sola fuit) seu eidem C. & M. post desponsalia inter eos celebrata licet ad hoc faciens p̄ p̄fate C. & M. post mortem p̄dicta' J. sepius requisit

requisie fuisset non deliberabit set Bona  
& Catalla illa postea apud *J.* p̄dic' in  
usum suum p̄prium convertit & disposuit  
in retardationem executionis Testamenti  
p̄dic' ad dampnum (*Ec.*) & unde iidem  
*C. & M. p. H. H.* Atrozū suum querun-  
tur quare cum p̄dic' *J.* in vita sua scit  
(tali die *Ec.*) apud (*Ec.*) possessionae fu-  
isset de diversis Bonis & Catallis (vide-  
licet) de uno lecto *Ec.* (here name the  
Goods) ad valenc' (*Ec.* as before usq) ad  
dampnū ipsorū *C. & M. 40 l.* Et inde  
pduc' Sextam Et p̄fert hic in Cur' (*Ec.*)  
as in the other Presidents before.

See Tre. Tro. 147, 150.

*In Banco Regi'.*

The like Action brought for Goods  
which were the Testator's, lost out of  
the Possession and Custody of the  
Administrator.

ff. **A** B. Administrator omnium bo-  
nozum & catallozum jurium &  
creditorum que fuer' *C. D.* nup defunct'  
qui obiit intestat' *Ec.* queritur de *G. F.*  
in custod' Marri *Ec.* p eo videt' qd cum  
p̄dic' *A.* (tali die & anno) apud (*Ec.*) in  
Com' p̄dice (Administrator p̄dice *C.* ut  
p̄fertur existens) possessionae fuit de di-  
versis bonis & catallis que fuer' p̄dice *C.*  
tempore mortis sue & inter alia de una  
Parca p̄terij sex Librarum ut de bonis  
*C.*



Trover.

Et catallis ipsius A. (Administratozis  
 pdice C. ut pfertur existend) Et sic inde  
 possessionae existens idem A. Vaccam il-  
 lam extra manus Et possessionem suam  
 casualiter pdidit Et amisit que quidem  
 Vacca sic amissa postea scit quinto die  
 Maij Anno (Ec.) supradicto apud P.  
 pdict' in Com pdict' ad manus Et posses-  
 sionem pdict' G. p invenconem devenit pre-  
 dice tamen G. satis sciens Vaccam illam  
 fore Vaccam predice A. Et idem A. (Ad-  
 ministratozi pdice C. ut pfertur existen-  
 ti) de jure spectare Et pertinere machi-  
 nans tamen Et fraudulene intendens eun-  
 dem A. in hac parte callide Et subdole de-  
 ripere Et defraudare Vaccam illam eidem  
 A. (cui quidem A. Administrato omnid  
 Et singulorum bonorum Et catallozum ju-  
 rium Et creditorum que fuer pdice C. in  
 vita sua p C. Permissione Divina Ba-  
 thom Et Willel Episcopum apud P. pre-  
 dice in Com pdict' debito modo commissa  
 fuit) licet ad hoc faciend idem G. p eund  
 A. postea scit primo die Augusti Anno  
 (Ec.) supradicto Et sequius postea apud P.  
 pdice in Com pdict' requisie fuisset non  
 delibavit sed Vaccam illam postea scit  
 vicesimo die Augusti Anno (Ec.) supra-  
 dicto apud P. pdict' in Com pdict' in usum  
 Et commodum suum proprium convertit Et  
 disposuit in retardaconem fidelis Admi-  
 nistracionis omnium Et singulorum bono-  
 rum Et catallozum jurium Et creditorum  
 que fuer pdict' C. tempore mortis sue  
 unde idem A. dicit quod deterioze est Et  
 dampnum habet ad valene sexdecim li-  
 bzarum

hærum Et inde pduc Beccam, &c. Et  
pferit hic in Curia idem A. Literas Ad-  
ministratozias p̄dia' Episcopi p̄dia' que  
Commissionem Administrationis p̄dia'  
honorum & catallozum jurium & credito-  
rum p̄dia' C. p̄dia' eidem A. in forma  
p̄dice testantur quarum dat est die & anno  
supradictis, &c.

See 1 Mod. Intr. 17, 18. Tre. Tro. 148. 4.

See more of this in the new Book inti-  
tuled, *A Treatise of Trover, &c.*

## W A S T E.

**T**HIS is an Action that lies where any  
Tenant for his own or anothers Life,  
Tenant for Years, or in Dower, Tenant  
by Courtesie, or Guardian in Chivalry doth  
make Waste or Spoil (in the Woods, Gar-  
dens, Orchards or Lands he doth hold)  
to the Prejudice of him in Reversion, or  
the Heir, and it is, either voluntary, as  
when the Tenant doth willingly do it; or  
'tis permissive and negligent, as when the  
Tenant doth suffer it to be done, *Vide Co.*  
*Lit. 1 part 53, 57.*

And this is ether in the Tenet, when 'tis  
brought against him that hath the present  
Estate; or in the Tenuit, when 'tis brought  
against him that had the Estate in the  
Land.

*Note,*

Waste.

Note, Where the Waste is found upon the Tenet, the Plaintiff shall recover treble Damages, and the place wasted; that is,

1. If it be a whole House, then the whole House.

2. If in one or two Rooms separately, then those Rooms.

3. If it be in a Close, as much of the Close as is wasted.

4. If it be in Trees or Hedge-rows, the Circuit of the Root, and no more.

5. If it be in a Corner of a Wood here and there, then that Corner only.

6. But if it be in divers places of the Wood, up and down, here and there, then perhaps the whole Wood.

And this he shall recover discharged of all Incumbrances.

And note, That voluntary and negligent Wastes are alike punishable, *Dyer*, 281.

See *Marlb. Cap. 23. Westm. 2. 14 Stat. Waste 10 Ed. 1. Glouc. Cap. 5. Old N. B. 36. 1 Co. 54. Co. 11. 50. Dyer 281. F. N. B. 94, &c. Fitz. Waste, 62, 75.*

This Action may be had by him that is in Reversion, or next in Remainder in Fee-Simple or Fee-Tail, after the particular Estate for Life, &c. ended; or by his Heir, or by the Grantee of the Reversion or Remainder; or by the Grantee of such Heir or Grantee, and so by any Grantee of the Reversion *in infinitum*, 1 Co. 53. F. N. B. 57.

But



## Of Declarations.

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But a Tenant for Life, or he that hath a less Estate than a Fee-Simple or Fee-Tail, may not have this Action, *Co. Litt. 273. Noy 26.*

If the Ancestor die, depending the Action, the Heir may finish it, *Stat. 11 H. 6. 5.*

And if two Copartners be of a Reversion, and Waste is committed, and one of them die, the Survivor and Aunt may maintain this Action, *1 Co. 53.*

If a Woman-Covert have any Cause to bring this Action, she and her Husband must join in it, *9 H. 6. 43. F. N. B. 57. Vide Co. Litt. 285.*

This Action lies, as aforesaid, against Tenant for Life, Dower, Courtesie, or for Years, though but for one Year or half a Year, *Glouc. Cap. 5. 10 Co. 98. Co. 6. 37, 73.*

But not against a Tenant in Fee-Simple, Fee-Tail, in Tail after possibility of Issue extinct, *10 Co. 98.*

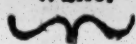
Not against a Tenant by Elegit, Statute-Merchant or Staple, Tenant in Mortgage, or Tenant at Will, *5 Co. 12, 89. 1 Co. 54, 57, 185. Co. 6. 41. F. N. B. 59. See 1 Co. 53. Plow. 10.*

It will not lie against Executors or Administrators for Waste done by the Testator, *F. N. B. 57. Kelw. 105. Sed Vide 5 Co. 12. 10 Ed. 4. 1.*

It lieth against an Infant not only for Waste done by himself, but also for Waste done by a Stranger, *1 Co. 53.*

It

Waste.



It lieth against Husband and Wife, if a Lease be made to the Wife alone for Life or Years, or she or her Husband doth make Waste, *F. N. B.* 57.

Concerning against Tenant in Dower, or by the Courtesie, *Vide* 1 *Co.* 54, 310.

Concerning against Tenant in Common, and Joint-tenants, 1 *Co.* 200.

Disseisor, *Vide Bro. Waste* 36. *N. B.* 37.

Stranger, 1 *Co.* 54. *Doct. & Stud.* 34.

Guardian in Chivalry, 1 *Co.* 54. 5 *Co.* 12. 6 *Co.* 7. *Fitz. W.* 10.

Guardian in Soccage, 1 *Co.* 54. *F. N. B.* 59.

*Vide Reg. Orig. F. N. B. Townsends Tables, &c. Fitz. Waste tot. Bro. Waste tot.*

For Waste done in and about Houses, *Vide Bro. Waste* 130. 26, 19, 39, 43, 82, 69, 107, 117, 455. *F. N. B.* 59, 60. *Kelw.* 37. 10 *H.* 7. 2, 5. 1 *Co.* 53. 4 *Co.* 94. *Inst.* 1. 53. 10 *Co.* 139. 11. 41. 4. 69. *Dyer* 36. 20 *H.* 7. 2.

In Trees and Woods, 15 *H.* 7. 21. 11 *H.* 4. 11. 12 *H.* 7. 1. 13 *H.* 7. 21. 11 *H.* 6. 1. 7 *H.* 6. 40. *Kelw.* 95. *F. N. B.* 59, 60, 99. *Dyer* 36, 37, 43, 314, 332. *Perk.* 238. 1 *Co.* 53, 88, 193. 11. 48. 6. 64. *Bro. Waste* 34, 130. *Bro. Tresp.* 134, 136, 411.

In Gardens or Orchards, 10 *H.* 7. 2. 48 *Ed.* 3. 44. *Bro. Waste* 19, 82, 39. 1 *Co.* 53.


In Lands, *Dyer* 37, 361. 1 *Co.* 53. 10 *Co.* 139. *F. N. B.* 59. 2 *H.* 6. 11.

In Mines, 1 *Co.* 53, 54. 5 *Co.* 12. 20 *H.* 6. 1.

In

## Of Declarations.

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In Parks, Ponds, &c. 1 Co. 53. Bro. W. Waste.  
 29, 94, 130. Dyer 37. Kelw. 37. 6 R. 2.   
 8 H. 8. 5.

Some say Waste lieth not for small Damages, as 6 d. 12 d. &c. yet it seems to lie for any Value, only the Plaintiff must be sure to declare for enough, otherwise the Declaration may fail; and if he so declare then if the Jury find but small Damage, it is good, *Vide Co. Inst.* 154. Bro. Waste, 20. 70. Plowd. 329. 9 H. 6. 66. 38 H. 8. 7.

Where this Action may determine, *Vide* 1 Co. 53.

*Note*, If the Lease be made without Impeachment of Waste, the Lessee cannot do Waste, *Vide* 1 Co. 14. 2. 18. 6. 63. 11. 81, 82, 83. Dyer 240. Plowd. 135, 557. 9 H. 6. 35. Marl. cap. 23.

*Vide* Co. Lit. 53, 54. Touchstone of Presidents, Compleat Solicitor, Compleat Attorney.

For Presidents, *Vide* Brownl. Declar. and Plead. Co. Entr. Rast. Ent. Townsend's Tables, &c.

Action of Waste lies not in Ancient Demesne, 2 Saund. 254.

H h

For



For the Heir of the Lessor against Husband and Wife, upon a Demise made to the Wife for Life, when she was sole.

ff. **J**. H. & M. Hroz ejus summo fuerat ad respondendum R. S. de placito quare cum de Comuni Consilio Regni Domine Regine Anglie, &c. pbiis sit quod non liceat alicui vassum venditionem seu destructionem facere in Terris Domibus Bolcis seu Gardinis sibi dimissis ad Terminum vite vel annorum pbiati J. & M. in Domibus in B. quas tenent ad vitam ipsius M. ex dimissione quam C. S. consanguineus pdice R. cujus Heres ipse est fecit pfac M. ad eundem Terminum fecerit vassum venditionem & destructionem ad exheredationem ipsius R. & contra formam pbiis pdice, &c. Et unde idem R. p C. M. Attornd suum dicit quod cum pdice C. S. nuper fuisset seise de uno Messuagio cum pertinendo vocat p. in B. pdice in Dincto suo ut de Feodo Et sic inde seise existens apud B. pdict dimisit pfac M. dum ipsa sola fuit Messuagium pdict cum pertinendo habens sibi ad Terminum vite ipsius M. virtute cujus dimissionis pdict M. fuit de eodem Messuagio cum pertinendo seise in Dincto suo ut de Libero Tenemento ac postea pdict M. cepit in Vicum pdict J. per quod iidem J. & M. fuerunt de eodem Messuagio cum pertinendo seise in Dincto suo

## Of Declarations.

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Waste.

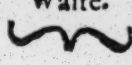
ut de Libero Tenemento in jure ipsius  
 M. posteaq; p̄s T. obiit post cujus mor-  
 tem Reversio Mesuagij p̄dict cum per-  
 tinē descendit p̄fat H. ut consanguineo &  
 heredi p̄dict T. videlicet fil G. fratris  
 p̄dict T. & p̄dict J. & M. sic inde scit, &c.  
 fecerunt vastum & destructionem in Te-  
 nementis p̄dict cum pertinē videlicet per-  
 mittendo unam aulam pretii trigint Li-  
 brarum stare discooperē per quod gros-  
 sum meremur inde per Tempelates plu-  
 viales super ill discendē putrid debent  
 & corrupt domusq; illa ruina minatur  
 ad exheredationem ipsius H. unde dicit  
 quod deteriorat est & dampnum het ad  
 valent centum Librarum Et inde pduc  
 Sciam, &c.

See Pl. Gen. 654.

*Narr' in vasto versus Tenant in  
 Dower.*

It. **A**. B. & C. Uxor ejus fund fuer  
 . ad respondens S. C. de placito  
 quare tecerunt vastum venditionem & de-  
 structionem in Domibus que tenent ut  
 dotem ipsius C. in W. ad exheredati-  
 onem ipsius S. Et unde idem S. di-  
 cit qd cum idem A. & C. teneant tria  
 Mesuagia cum pertinē in W. ut dotem  
 ipsius C. ex dotatione C. quondam Viri  
 sui de hereditate ipsius S. idem A. &  
 C. fecer vastum venditionem & destructio-  
 nem in Mesuagiis p̄dict in Domibus vi-  
 delicet

Waste.

 delictet permittens tres aulæ pretij quinquagintæ Librarum (&c.) stare discooperit p quod grossum maeremium inde p tempestates pluviales super ille discenden putrid' debet & corrupt domusq; ille ruina minantur ad exheredationem ipsius S. unde dic qd deteriorat est & dampnum het ad valenc (&c.) Et inde pduc Sententiam, &c.

See Pl. Gen. 663.

De Domibus & Gardinis, 2 Bro. 290.

De terris Domibus Boscis & Gardinis, Win. 1017, &c.

Vers' Tenen' pro Termino vite, Clif. 814. 2 Bro. 294.

Pro viro & ux' in jure ux' vers' virum & ux', 1 Bro. 184.

For him in Remainder against a Copyholder, 3 Lev. 129.

Against Lessee for Years and Life, 1 Bro. 368. 374.

Vers' Exec' del Gardian, Pl. Gen. 673.

Vers' Assignees, Pl. Gen. 635. 644. 665.

Obser



*Observations concerning Declarations, and the Exposition of Words and Sentences, collected from the First and Second Part of Saunders's Repors.*

**T**HAT a Plaintiff may not falsifie his own Declaration, 1 Saunders 209.

2. It is his Opinion, That if an Executor be sued by Bill in the *Queen's Bench*, upon the Covenant of the Testator, and named Executor, in the body of the Narration, although not so named in the beginning, 'tis well enough, yet makes a Quære, *Idem* III, 112.

3. That in Ejectment the Plaintiff need not declare upon a Demise of more Acres, than the Acres out of which he was ejected, *Idem* 208.

4. In Debt against an Executor upon suggestion of a *Devastavit*, the Plaintiff need not averr in his Declaration, that the Defendant hath not more Assets in his hands, *Idem* 218, 219.

5. If by one only Deed, two things are to be performed (*scilicet*) one by the Plaintiff,

*become their Bill or Wardship to be their Original and so on*

*signed at Guildhall*

*H h 3*  
I have heard my Father say he had a Client who had for having recd Money to p<sup>ay</sup> to the King's Bench when in fact he had not recd any when the Bill of Middle was made out at 200. Two Months after & before the Declaration was delivered he had recd the Money, & he depended to have had a Non-suit upon his Oath, not having recd any Money to p<sup>ay</sup> to the King's Bench. The Bill of Middle was made out, but North's Attorney said maintain that the same was their Original & p<sup>ay</sup> recovered.

tiff, the other by the Defendant, and there is not mutual Remedy, the Plaintiff ought to averr Performance on his part, *Idem* 320.

6. If that Agreement be made by Deed, Indented, and both Parties Seal it, they have mutual Remedy the one against the other, and there needs no such Averment; but it might be otherwise if the Specialty had been only the Words of the Defendant, and not the words of both Parties, &c. *Ibidem*.

7. When a Declaration may be good in part, and bad in part, 2 *Saund.* 379, 380.

8. Where upon a Demurrer unto the whole Declaration, the Plaintiff shall have Judgment for that part which is sufficient although that the other part is insufficient, *Idem* 380.

9. In Trover the Plaintiff declared *pro decem paribus Velor' & Tegulor'* (*Anglice* Curtains and Valence) and 'tis certain enough, *Idem* 2 part pag. 74.

10. In Debt upon a Bill Obligatory for Payment of Money to the Plaintiff, so soon as several Bills of Cost should be debated and settled, it ought to appear in the Declaration, that the Bills were settled, or that some Default was in the Defendant by which they were not settled, *Idem* 107, 108.

11. Where a Submission is to Arbitrators, and if they cannot make any Award, then to an Umpire, and the Award and Umpirage are limited to the same day: If  
the

the Umpire makes an Umpirage, the Plaintiff ought to shew in his Declaration, for what Cause the Arbitrators could not make their Award, *Idem* 130, 132.

12. Declaration against a Sheriff, That he suffered his Prisoner to escape, and had returned a *Cepi Corpus, & paratum Habeo*, whereas in truth he had not the Body at the Return of the Writ. *Quere* whether this Declaration was for the false Return only, or for the Escape only, or both. The Defendant demurred, but Judgment against him, because he did not plead the Statute of Sheriffs Bonds, being a private Statute, *Idem* 154, 155.

13. In *Assumpsit* to perform an Award, by which it was awarded, that the Defendant should give a Bond with sufficient Security: If the Breach be assigned, that the Defendant himself had not given any Bond according to the Award, the Declaration good, because he may be obliged by Award to give Bond, though not to find Surety, *Idem* 337.

14. A Declaration upon the Statute of Hue and Cry is insufficient, for that the Plaintiff does not shew the particulars of the Goods taken, &c. nor that they were the Goods of the Plaintiff, but generally that they were in his Custody, *Idem* 379.

See the distinction of some Words to be used or refused in Declarations, in *Regula Placitandi*, pag. 27.



*Exposition of Words.*

**W**Here the word *Scilicet* or *Videlicet*, being repugnant to the precedent matter is void, 1 *Saund.* 118. 169. 2 *Part* 290, 291.

The word *Scilicet* or *Videlicet*, not being repugnant to the precedent matter, but well agreeing with it, is a direct affirmation, and shall be taken positively, *Idem* 1 *part* 170.

The word *Scilicet* or *Videlicet*, shall make a restriction where the words are general, *Idem* 1 *part* 170.

Where the word *Scilicet* being repugnant to the word *Postea*, is void, and where not, *Idem* 286, 287.

The word *Postea* is in many Cases sufficient (notwithstanding a repugnant *Scilicet*) where it is alledged in point of Fact, but not where the party mistakes the Law, *Idem* 287.

Where *Scilicet* after *Postea* shall not be void, but will make an ill Conclusion against Law, *Ibid.*

Where the word (*Except*) shall be construed to be sensible enough, although it be put out of its proper Place, *Idem* 320.

Where Covenant lies upon the word *Dimisi*, and where not, *Idem* 321, 322.

The extent of the word *Concessi*, *Idem*, 2 *part* 96.

Where

Where the word *Placitum* is a Noun Collective, *Idem* 1 part 338.

The words *ad Sequendum*, do not only signifie to Prosecute, but also to Defend, and may be indifferently applied, either to the Demandant or Plaintiff, or to the Tenant or Defendant, *Idem* 2 part 95.

For the difference between ( in consideration of a Covenant performed ) and ( in consideration of a Covenant to be performed ) *Idem* 2 part 156.

*In consideratione performanceis inde*, make a Condition precedent, *Idem* 156, 157.

The word *Habens* being a Particle of the Present Tense, refers to the same Time as the word refers to which it is joined, *Idem* 180.

Where the words *contra Formam & Effectum*, &c. shall be construed a Conclusion in Law, and not matter of Fact, *Idem* 181.

The word *mutuo*, signifies as well to Borrow as to Lend, *Idem* 291.

Where the word *Pro* makes a Condition, *Co. Litt.* 204. 1 *Saund.* 320. 2 *Saund.* 352.

## Exposition of Sentences.

**W**Here one part of a Sentence shall be restrained and expounded by the other, and where not, 1 Saund. 59, 60.

Where one restrictive Clause shall extend to both Sentences, and where not, *Idem* 60.

Construction of the Sentence to save harmless from all Actions, against *A. &c.* *Idem* 118.

*Cessante Statu primitivo cessat & derivativus, Idem* 200.

*Actio Personalis moritur cum Persona, Idem* 216.

An insensible Clause does not make the residue of the Deed vitious, which is sensible of it self, *Idem* 320.

*Dies Dominicus non juridicus, 2 Saund.* 42.

*Ad ea quæ frequentius accidunt Jura adaptantur, Idem* 67.

Where the addition of useless and insensible words shall not hurt, *Idem* 79, 80.

The best Construction is to be made for the Support of a Judgment, *Idem* 96.

The Law abhors Circuity of Action, *Idem* 150.

Where words that are vain and idle, as to the Sentence in which they are placed, shall have their operation upon a subsequent Sentence, *Idem* 166.



*Quoties in verbis nulla est ambiguitas ibi nulla expositio contra verba expressa fienda est, Idem 167.*

*Modus & conventio vincunt Legem, Ibid.*

Where a Sentence in the **Conjunctive**, shall be taken in the **Disjunctive** and **Distributive**, *Idem 292.*

Where for insensible words inserted in a Sentence, the whole Sentence was adjudged insensible, though it was perfect without them, *Idem 306.*

*Utile per inutile non vitiatur, Idem 306, 369.*

*Expressio eorum quæ tacite insunt nihil operatur, Idem 351.*

Where the Recital in the Condition of an Obligation shall restrain the subsequent indefinite words, *Idem 413, 414.*

*Vide Vent. Rep. Vide Lev. Rep. in les Tables.*

Concerning

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Concerning



*Concerning Appearances and Imparlances, and drawing and delivering Declarations.*

**I**T is said to be a Rule of Practice in the *Common Pleas*, for avoiding of long and unnecessary Repetitions of the Original Writ in Actions upon the Case, and Personal Actions upon Penal Statutes, That Declarations in Actions of Trespass upon any General Statute, as Hue and Cry, Monopolies, and for Suits in the Admiralty, and such like (other than Debt) repeat not the Original Writ, but only the Nature of the Action.

That for avoiding the Common Bar or new Assignment, the Declaration upon an Original, or Bill *Quare clausum fregit*, may mention the place certainly, and so prevent the use and necessity of the common Bar and new Assignment.

That in Actions of Covenant, not to repeat more of the Deed than is necessary for the Assignment of the Breach, and not to repeat the Covenant in the Conclusions.

That

That in Actions of Slander, long Preambles be forborn, and no more Inducement than what is necessary for the maintenance of the Record when it requires a special Inducement or *Colloquium*.

That in Actions upon General Statutes, the Declaration not to repeat the Statute, but to conclude against the Form of the Statute in such Case made and provided; as in Debt upon Statute for Tythes, for Maintenance, Monopolies, &c.

That in Actions of Debt, upon a Judgment had in the Courts of *Westminster*, to recite only the Judgment; but if upon a Judgment had by, or against an Executor or Administrator, then the Action of Debt upon that Judgment, to repeat the Declaration and Judgment.

That before the Declaration actually entered, the Plaintiff may amend his Declaration, paying Costs, or giving an Imparlance, at the Plaintiff's Election by the Order of a Judge of the Court or Prothonotary, but not after it is entered, without Consent or Rule of the Rule.

*Note,* The Practice of the *Queen's Bench* is much the same with the *Common Pleas* as to the matters before mentioned.

By the Practice of the *Common Pleas*, if the Defendant be Arrested upon Mesne Process in *London*, or in any other County or City, the Plaintiff may declare against him in such County or City where he was Arrested, or may lay his Action in any other

\* *Note*, The Defendant may change the Venue upon Affidavit, that the Cause of Action did arise in such a County, &c. other County \* in England at the Plaintiff's Election; and the Defendant is bound to accept of as many Declarations by himself or his Attorney, in any Action whatsoever, at the Plaintiff's Suit (Real Actions only excepted) as the Plaintiff hath cause to declare against him, but the Defendant is only to put in Bail to the first Action (if the Case require Bail) and only to appear to all such other Actions as shall be brought against him by the same Plaintiff, as aforesaid; and to receive Declarations thereupon, without putting in Bail thereunto (except in the first Action only as aforesaid.)

But *note*, That the Defendant is not bound by the Rules or Usage of this Court to accept of Declarations at any other Persons Suit than the Plaintiff's, at whose Suit he is Arrested (as the Course is in the Court of *Queen's Bench*) for that there the Defendant is supposed to be in *Custod' Marr' Maresc'*, and so to answer, &c.

See the late Act for delivering Declarations against Prisoners, 4 and 5 *William* and *Mary*, Cap. 21. See also *Instr. Clerical*. 1 part.

*Vide Compleat Attorney and Solicitor*, pag. 58, 59, &c.

*Note*, The Plaintiff must give Rules in the Prothonotaries Office, in which he enters, for the Defendant to answer.

And if the Plaintiff's Attorney cannot find the Defendant's Attorney or Clerk, to deliver the Declaration, he may leave it in the Office, &c.

And



And *note*, That no Judgment by *Nil dicit* be entred until there be a Rule to Plead given in the Office; and that no Rules to Declare or Answer be given after Three Days exclusive, after the end of any Term, and such Rules to be out at Four Days inclusive of the Day wherein the same is given.

*Note*, It is said the Plaintiff hath that Term wherein the Writ is Returnable, and until the last Day of the subsequent Term, to declare against the Defendant; and if he doth not then declare, the Defendant upon the Rule given, in that Office where the Plaintiff's Attorney to the Writ enters, may there sign a *Non Pros*, and take out Execution thereupon for his Costs; and it is said there is the same time allowed the Plaintiff to declare in the *Queen's Bench*, otherwise the Defendant may there have a *Non Pros*.

In like manner upon pleading any General Issue, the Defendant may, after a Rule given, nonsuit the Plaintiff (if he do not enter his Issue) and get Costs signed by the Prothonotary, and enter up Judgment; *quia Quer' non junxit in Exitum, nec ulterius Pros' est Breve summe pred'*.

But if the Defendant do plead specially, and the Plaintiff replies not in due time, the Defendant must move the Court to give a Day peremptory for the Plaintiff to reply, which if he do not by the time limited, Judgment shall be awarded against him

him, *pro defectu Replicationis* ; for in this Case it is said the Defendant cannot have Judgment of Course, without Motion in Court, See *Latch.* 129.

That if the Defendant appears the first Term, and gives no Rules to declare, the Defendant's Attorney may the second Term be compelled to accept of a Declaration with Imparance, and the Declaration may be entred as of that Term, with an Imparance over to the next Term ; but now they usually let their Entries alone till the Record be made up and signed by the Prothonotary ; and then also many times make but an *Incipitur* upon the Rolls, and perfect their Entry in the Vacation after.

If the Plaintiff declare not the second Term, tho' the Defendant give no Rules, yet a Nonsuit may be entred at the end of the second Term upon a Continuance over by him entred by *dies datus*, but not the third Term, or after.

That upon a meer Real Action, or a bare *Clausum fregit*, an Imparance of Course, but in Dower upon View had, if the day to appear be upon the first Return of any *Hillary* or *Trinity* Term, no Imparance without Consent or Rule of Court.

That in Ejectment, or any Personal Action, if the Appearance be the first Return of *Hillary* or *Trinity* Term, no Imparance without Consent or Special Rule, in such Cases other than in *London* or *Middlesex* ; if the Appearance be before *Crastinum Martini* or *Mens' Paschæ*, no Imparance

parlance without Consent or Special Rule; but if upon or after those Returns, Imparlance of Course.

In *London* and *Middlesex*, if the Appearance be before *Crastinum Ascensionis*, or before the last Return of any other Term, no Imparlance without a Special Rule or Consent, but the Defendant to plead as of that Term, within Fourteen days after the end of the Term, upon Rule given to Answer; But if of *Crastinum Ascensionis*, or the last Return, then an Imparlance of Course.

That the Plaintiff having declared, and given a Rule for Answer, the Defendant is to deliver his Plea in Writing to the Plaintiff's Attorney or known Clerk.

That if there be no such Attorney or Clerk to be found, or being found, refuseth to accept it, then the Plea may be left in the Office to save a Judgment.

That in any Case where a Plea or Declaration is left in the Office, no Nonsuit for want of Declaration, or Judgment for want of a Plea be entred.

That in Cases of popular Actions, Informations, or real or mixt Actions (except Ejectment) no Judgment to be entred by default, or *Nil dicit*, without a Motion in Court.

That after any Imparlance of Three Terms, without any calling for Answer, no Judgment be entred without a Term's Notice.



See for these things in *Praxis utriusque Banci*, and *Compleat Attorney and Solicitor* last printed.

See also *Practical Reg.* last printed, in *Title, Action, Amendment, Declaration, &c.*

## In Banco Regine.

**T**HAT if an Attorney of this Court accept a Warrant directed to him to appear for the Defendant, or subscribing the same, and do not cause Common Bail to be filed accordingly, shall the next Term be compelled to appear of the precedent Term, and to plead to Issue, or for want of Pleading, Judgment to be entred by Default, *Compleat Solicitor* 335, 336. *Sed vide Act. 5 & 6 W. & M. of 5 l. penalty. Vide Instr. Clerical.* 1 part last printed.

That in Causes in *London* and *Middlesex*, where the Defendants appear upon a *Cepi Corpus*, if the Declaration be delivered before the Essoyn-day of *Craftinum Animarum* in *Michaelmas* Term, or before the Essoyn-day of *Mens. Pasch'* in *Easter* Term, the Defendant is to plead and to enter as of that Term, the Plaintiff giving Rules, &c. *Ibidem.*

That

That if a Cause have continued Four Terms without Prosecution before Issue joyned, the Defendant is to have a Term's Notice to plead, &c. before Judgment can be entred by default; if after Issue joyned, a Term's Notice before the Trial.

If Notice be given of a Trial in *London* or *Middlesex*, and not tried that Sitting, the Plaintiff may try it the next Sitting upon two days Notice; but if not tried the next Sitting, then Notice to be given as at the first, viz. 8 days. *Vide* 1 part, 76.

If you are for the Defendant you may bring a Cause to Trial by *Proviso*, when the Plaintiff will not proceed; but in Actions laid in *London* or *Middlesex*, the Defendant ought not to try the Cause by *Proviso* the same Term Issue is joyned, unless the Plaintiff hath first given the Defendant Notice of a Trial that Term, and hath made default. *Compleat Sollicitor*. 335.

That if the Defendant appear and im-  
parle till the first day of the next Term,  
and die after the day in Bank, yet if Rules  
be given to answer, and no Plea be plead-  
ed, Judgment must be entred against him  
the next Term by *Nil dicit*, as of the first  
day of the Term, 336.

*Note*, In this Court the Declaration being drawn by the Plaintiff's Attorney, either the Defendant's Clerk calleth for it, or else it is \* delivered unto him by the Plaintiff's Clerk, and he maketh a Copy of it, and hath the Benefit of it. And then the next Term after, or as soon as the Plaintiff's Clerk calls for Answer, the Defendant's Clerk giveth him his Declaration again, and pleadeth to it, or else confesseth the Action, or lets it go by default, as he finds best for his Client's Advantage, *Idem* 306.

But if the Attorney be not known, &c. then they ingross them, and leave them in the Office.

Also in this Court they are to ingross their Declarations in Parchment in little pieces severally, and upon the back of them they enter their Continuances from the Term within written unto the Term that the Action be confessed, or that they go to Issue, and that the Issue be entred on Record. Yet after Issue is joined, many times they deferr the entering thereof till the Cause be tried (which is otherwise in the *Common Pleas*) which is beneficial both to the Plaintiff and Defendant, being they may in the mean time agree the Business, and save that Charge, *Idem* 307.

Also note, That the Defendant ought not to give the Plaintiff a Rule to enter his Issue



his Issue the same Term (when in *London* or *Middlesex*) Issue is joined, unless the Plaintiff hath first given the Defendant notice of a Tryal that Term, and hath made default. *Idem* 335.

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\* *Note*, When the Plaintiff hath declared, if his Clerk do not call for an Answer, nor enter the Action within three Terms after the Appearance of the Defendant, the Plaintiff may be Nonsuited, and the Defendant recover Costs against him. *Idem* 303.

If the Defendant appear in the *King's Bench* in proper Person, the Plaintiff must declare within three days, or else he will have Costs against him. *Ibid.*

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*Note*, If there be special Pleading in any Action by the Plaintiff or Defendant, which either comes to Issue, or that there be a Demurrer, then they carry the whole Book to the Clerk of the Papers, whose Office it is to make it up, and to give a Rule on it, &c. That is to say, That in all Special Pleadings, where the Plaintiff takes Issue upon the Defendant's Pleading, or traverseth the same, or demurreth so as the Defendant is not thereby let in to alledge any new Matter, there the Plaintiff may make up the Paper-Book without giving a Rule

**Of Declarations.**

Rule with the Clerk of the Rules to enjoin :  
 And the Clerk of the Papers gives a Rule  
 upon the Paper-Book in the Margent for  
 the Defendant to join in Issue, or in De-  
 murrer; and he makes up the Books, and  
 is paid Eight Pence *per* Sheet for them  
 (which is otherwise in the *Common Pleas*;  
 for there the Plaintiff's Attorney gets that  
 profit.) *Vide Id.* 311, 336.

That the Defendant may amend his De-  
 claration in matter of Form after a Gene-  
 ral Issue pleaded before Entry, without  
 paying Costs, or giving Imparlance; but  
 if he mend in substance to pay Costs, or  
 give Imparlance at his Election; but if he  
 mend in Substance after a Special Plea  
 pleaded, to pay Costs, though he would  
 give Imparlance.

See more of these Amendments of  
 Narr' and Pleading *de novo* in *Compleat*  
*Sollicitor*, pag. 332, &c.

**FINIS.**

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